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Vol. IV

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES

October Term, 1891

No. 200

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY  
AND WABASH RAILWAY COMPANY, PETITIONERS,

vs.

THE NORTHERN UNION RAILWAY COMPANY, F. M. RUSSELL,  
ET AL.

No. 200

67

THE NORTHERN UNION RAILWAY COMPANY, F. M. RUSSELL,  
ET AL., PETITIONERS,

vs.

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY  
AND WABASH RAILWAY COMPANY.

ON WRIT OF HABEAS CORPUS TO THE UNITED STATES CIRCUIT COURT  
OF APPEALS FOR THE SEVENTH CIRCUIT.

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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1919.

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No. 278.

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY  
AND WABASH RAILWAY COMPANY, PETITIONERS,

vs.

DES MOINES UNION RAILWAY COMPANY, F. M. HUBBELL,  
ET AL.

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No. 279.

DES MOINES UNION RAILWAY COMPANY, F. M. HUBBELL,  
ET AL., PETITIONERS,

vs.

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY  
AND WABASH RAILWAY COMPANY.

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IN THE

District Court of the United States

AND FOR THE SOUTHERN DISTRICT OF IOWA  
CENTRAL DIVISION.

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CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COM-  
PANY, AND THE WARREN RAILROAD COMPANY,  
COMPLAINANTS,

vs.  
THE MOINES UNION RAILWAY COMPANY, FREDERICK  
M. HUBBELL, FREDERICK O. HUBBELL AND W.  
M. HUBBELL & SON, DEFENDANTS

---

DEFENDANTS' TESTIMONY.

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PARKER, PARRISH & MILLER,  
Solicitors for Respondents.

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In the Circuit Court of the United States in and for the Southern District of Iowa, Central Division.

Chicago, Milwaukee & St. Paul Railway Company and The Wabash Railroad Company, Plaintiffs,

vs.

Des Moines Union Railway Company, Frederick M. Hubbell, Frederick C. Hubbell and F. M. Hubbell & Son, Defendants.

Stipulation of Counsel Respecting the Admission of Copies of Certain Documentary Evidence on the Part of the Defendants.

It is hereby stipulated and agreed by and between counsel for the plaintiffs and defendants in the above entitled cause that copies of the records, resolutions, contracts, letters, memorandum, deeds and other writings, a list of which is hereunto attached, may be considered as offered and admitted in evidence in said cause on the part of the defendants; subject, however, to all and every objection thereto on the part of the complainants that might be made or urged against the originals. It is the intention that said copies shall be given the same effect as evidence as would be given to the originals of said several writings. A list of the said writings, copies of which are above mentioned and referred to, is hereto attached and marked exhibit "A" and copies of said writings are also attached hereto.

Said copies shall be designated as "Defendants' Exhibits", and shall be numbered consecutively from 100 to 644 inclusive.

It is further stipulated that pursuant to the terms of the contract (plaintiffs' exhibit No. 2) a lease was made by the Des Moines Northwestern Railway Company to the Wabash, St. Louis & Pacific Railway Company in the year 1881, under which the last named company operated the Des Moines Northwestern Railway until receivers for the Wabash, St. Louis & Pacific Railway Company were appointed in 1884.

It is further stipulated that the records of the Des Moines Northern & Western Railroad Company do not show any meet-

ings of either the stockholders or directors of that company between May 27, 1899 and June 11, 1907.

It is further stipulated that under the mortgage by The Wabash Railroad Company entitled "Des Moines Division First Mortgage, January 1, 1899" that company deposited with the Continental Trust Company as trustee its copy of the contract of May 10, 1889 (plaintiffs' exhibit No. 27), and a certified copy of the contract and ratification thereof dated July 31, 1897 (plaintiffs' exhibit No. 37), the original of said exhibit No. 37 having been lost, and that The Wabash Railroad Company also so delivered to the said Continental Trust Company, Trustee, the paper headed "Assignment of contracts The Wabash Railroad Company to Continental Trust Company of the City of New York", defendants' exhibit No. 447.

That each of the deeds, defendants' exhibits Nos. 438, 439, 531 to 543 inclusive, 546 to 549 inclusive, 551 to 555 inclusive, 558 to 573 inclusive, 576 to 578 inclusive, 582 to 584 inclusive, 588 to 591 inclusive and 594 to 608 inclusive in the attached stipulation was at or shortly after its date, duly filed for record, indexed and recorded in the office of the recorder of Polk county, Iowa.

Dated May 31, A. D. 1911.

WELLS H. BLODGETT,  
J. L. MINNIS,  
J. C. COOK,

Solicitors for complainants.

PARKER, PARRISH & MILLER,  
N. T. GUERNSEY,

Solicitors for defendants.

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**Defendants' Exhibit 100.****Offices held by F. M. Hubbell.**

Des Moines, Adel &amp; Western

Director 1880

Treasurer 1880

Des Moines, Northwestern Railway Co.

Director 1881-1896

Treasurer 1881-1883, 1885-1896.

Asst. Treasurer 1884.

Des Moines &amp; North Western Railway Co.

Director 1887-1892

President 1887-1892

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Des Moines, Northern & Western Railway Co.

Director 1891-1895.

President 1891-1895

Des Moines, Northern & Western Railroad Co.

Director 1895-1899

President 1895-1899

St. Louis, Des Moines & Northern Ry. Co.

Director 1881-1890

Treasurer 1881-1883

Secretary & Ass't. Treas. 1884.

Vice Pres. 1885-1888

Asst. Sec'y & Treas. 1889.

Secretary 1890.

Des Moines Union Railway Co.

Director 1884-present time

Secretary 1884-present time.

34 Narrow Gauge Railway Construction Co.

Director 1879-1886

Treasurer 1879-1880

President 1880-1886

Des Moines and St. Louis Railroad Co.

Director 1880-1891

Secretary 1880-1891

55

### Defendants' Exhibit 101.

#### Des Moines Union Railway Company.

Stockholders Meeting. November 1st, 1887.

The stockholders met this day, pursuant to the call of the President, made by direction of the Board of Directors at its regular session held October 8, 1887 for the purpose of considering the question of amending the Articles of Incorporation of this Company, and issuing bonds of the Company for the purpose of raising money to purchase, construct and improve its railway and property; and it appearing that notice of such meeting had been duly given—by publication three successive weeks in the "Iowa State Register", a newspaper published in the city of Des Moines, Iowa, a copy of which is as follows:

(There is here inserted the notice to the stockholders of this meeting, which notice was in proper form.)

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And it further appearing that the stock held by A. A. Talmage, he having deceased, had been assigned by his

executor, Mary R. Talmage, to James F. How, and that all of the stock of said Company was present and represented in the person of the stockholder, or by proxy, as follows:

C. F. Meek represented one share in person; F. M. Hubbell represented one share in person; John S. Runnells represented one share in person; J. S. Polk represented one share in person; C. F. Meek, as attorney for G. M. Dodge, represented one share; J. S. Polk, as attorney for James F. How, represented two shares of stock held by him, and F. M. Hubbell, as attorney for A. L. Hopkins, represented one share.

J. S. Polk, was, on motion, elected chairman of the meeting and called the meeting to order.

The minutes of the last meeting of the stockholders were read and approved.

The president then stated the object of the meeting, and had the records of the proceedings of the Board of Directors, passed at its meeting on October 8th, 1887, read.

C. F. Meek thereupon moved that Article three (3) of the Articles of Incorporation of this Company be amended so as to read as follows:

### Article 3.

The capital stock of this corporation shall be two million (\$2,000,000.00) dollars, which shall be divided into shares of one hundred dollars each, and shall be paid in at such times, and in such manner as the Board of Directors may determine, and the Board is also authorized to receive, in payment therefore, the property and franchises in the City of Des Moines—now held by the Des Moines & St. Louis Railroad Company, the Des Moines North-Western Railway Company, the St. Louis, Des Moines & Northern Railway Company, James F. How, Trustee, James F. How and Grenville M. Dodge.

Which motion, having been considered, was adopted, all the stock of the Company being represented and voting therefor.

F. M. Hubbell thereupon moved the adoption of the following resolution, to-wit:

Resolved,

That the Board of Directors of this Company are hereby authorized and directed to issue, or cause the same to be issued by the officers of this Company, not to exceed eight hundred thousand dollars of the bonds of this Company, drawing

not to exceed six per cent, principal and interest payable in gold in the city of New York; said Bonds to be for one thousand dollars each, and secured by mortgage or deed of trust on the property of this Company, and the same or the proceeds thereof to be used in purchasing and paying for its property and improving the same, and building its railways, depots, round-houses and shops, and making other improvements.

Which motion, after being duly considered, was unanimously adopted.

Whereupon the meeting adjourned.

F. M. HUBBELL, Secy.

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### Defendants' Exhibit 102.

#### Des Moines Union Railway Company.

Directors' Meeting, November 8th, 1887.

The Board met this day in regular session;

Present; James F. How, John S. Runnells, F. M. Hubbell and J. S. Polk.

The meeting being called to order by the Vice President, and the death of A. A. Talmage being suggested, Charles M. Hays was unanimously elected to fill the vacancy caused by his death, and said Hays, being present took his seat on the Board.

On motion of Charles M. Hays it was unanimously—

Resolved,

That this Company be authorized to purchase from Messrs. Polk & Hubbell two lots described as follows, to-wit; Lots numbered two (2) and three (3) in block thirty-three (33) of Keene & Pointdexter's addition, in the city of Des Moines, at such price as may be agreed upon between Messrs. Polk & Hubbell & O. D. Ashley, Secretary of the Purchasing Committee, and the Wabash, St. Louis & Pacific Railway Company. Said lots to be paid for in the bonds of this Company at par."

James F. How offered the following preamble and resolution, to-wit:

Whereas the Des Moines and Northwestern Railway Company, the Des Moines & St. Louis Railway Company, the St. Louis, Des Moines & Northern Railway Company, have adopted resolutions as follows; (These notices are omitted as they

are already set out as plaintiff's exhibits Nos. 13, 14 and 15 in complainant's evidence.)

60 Therefore It Is Resolved, That on receipt from the Des Moines & North-Western Railway Company and the St. Louis, Des Moines & Northern Railway Company and the Des Moines & St. Louis Railway Company and from James F. How, Trustee, and G. M. Dodge, of deeds to this Company of the property standing in their name in the city of Des Moines, that the officers of this Company be authorized to issue to said James F. How and G. M. Dodge, respectively, an agreement to deliver to them, as soon as prepared, bonds for the amount of money, with interest and taxes added, which will be shown by them, at that time, to have been expended by or through them for or on the property referred to.

The agreement for the delivery of bonds to be turned over to James F. How, Trustee, to state that the same are for the benefit of the Purchasing Committee of the Wabash, St. Louis & Pacific Railway Company; also that the agreement issued by the officers of this Company shall state that certificates can be prepared, and the officers of the Company will issue to the St. Louis, Des Moines & Northern Railway Company certificates for one-fourth of the stock of the Company, and to James F. How, Trustee, to be delivered to the Purchasing Committee of the Wabash, St. Louis & Pacific Railway Company, certificates for three-fourths of the stock of the Company.

Resolved, That the officers of the Company, on receipt of deeds referred to in the foregoing resolution, shall place the same on record, and prepare mortgages upon all the  
61 property of this Company then owned or to be hereafter acquired, to secure not to exceed eight hundred thousand dollars of bonds, principal and interest payable in gold, to be issued by this Company.

Said bonds to be for one thousand dollars each, dated November 1, 1887, and falling due fifty years from date, and bearing interest at the rate of five per cent per annum, payable semi-annually.

Resolved, That the officers of this Company be authorized, on the execution of said mortgage, to cause to be prepared and executed, bonds in conformity with the same, the amount required to be used in payment for the property, as provided in the foregoing resolution.

Said Resolutions having been duly considered were unanimously adopted.

There being no other business before the Board, it adjourned.

F. M. HUBBELL, Secy.

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### **Defendants' Exhibit 103.**

#### **Des Moines Union Railway Company.**

Board of Directors Meeting, March 31st, 1888.

The newly elected Board of Directors met at the Company's office for the purpose of electing officers of this Company for the current year.

There were present:

G. M. Dodge,  
Charles M. Hays,  
L. M. Martin,  
James F. How, and

Jefferson S. Polk,  
F. M. Hubbell,  
John S. Polk,  
W. H. Blodgett.

The President, G. M. Dodge, called the Board to order.

On motion of James F. How the Board proceeded to the election of officers.

G. M. Dodge was nominated for President.

James F. How for  
& F. M. Hubbell for

Vice President.  
Secretary & Treasurer.

A ballot being had, G. M. Dodge received the unanimous vote of the Board for President; James F. How received the unanimous vote of the Board for Vice President, and F. M. Hubbell received the unanimous vote of the Board for Secretary and Treasurer, and they were respectively declared duly elected to fill such offices.

It was Resolved, That the Executive Committee be authorized to appoint a Superintendent for the Company's property.

63 Upon motion of Mr. How it was Resolved, that the officers of the Company be requested to secure estimates for a new Depot, the purchase of the elevator in Des Moines, and other required expenditures here and to report the same to the Board at their next meeting, and also what the possibility is of disposing of sufficient bonds to pay for such expenditures so authorized.

On motion of Mr. How it was Resolved, that the officers of the Company be authorized to execute the bonds provided to

be issued, by resolution of the stockholders, adopted this day, in conformity with the provisions of the mortgage.

Whereupon the Board of Directors adjourned.

F. M. HUBBELL,

Secy.

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### **Defendants' Exhibit 104.**

#### **Des Moines Union Railway Company.**

Meeting of Executive Committee, April 26, 1888.

All the members were present.

Mr. J. B. Van Dyne was appointed Superintendent at a salary of two hundred dollars per month to take effect May 1, 1888 with his son as a Clerk who shall also act as Auditor of this company at seventy-five dollars per month.

R. A. Patchen was appointed Surgeon; his pay to be on same schedule of prices as per arrangement now existing between him and the Wabash Western Railway Co.

65

### **Defendants' Exhibit 105.**

#### **Des Moines Union Railway Company.**

Special Meeting of the Board of Directors, September 10, 1888.

The Board met this day, pursuant to the call of the President, due notice of such meeting having been given to each member of the Board.

The meeting being called to order by the President, G. M. Dodge.

The following members of the Board were present, viz:

G. M. Dodge, J. S. Polk, F. M. Hubbell, L. M. Martin, C. M. Hays, J. F. How and W. H. Blodgett.

It was Resolved, that the bills for rental against the Chicago St. Paul & Kansas City Railway be made out at five hundred (500) dollars per month commencing with the month of August 1888, which was carried.

On motion of Mr. How it was

Resolved, That the officers of this Company be authorized to settle with the Wabash Western Railway Company, and with other companies from whom they obtained supplies, machinery &c on or about May 1st 1888 by paying for same in bonds of the Company, if they can so arrange.

On motion of W. H. Blodgett the following resolutions were unanimously adopted, to-wit:

1st. Resolved, That the contract presented for consideration be so modified as to provide that the capital stock of the Company be divided into four equal parts; a certificate  
66 for one fourth of which shall be issued to each of the parties of the second part to said contract, and the other fourth shall be retained and held by the Des Moines Union Railway Company, and when the same or any part thereof is issued or disposed of it shall be for the equal benefit of the three parties of the second part.

2nd. Resolved, That the proper officers of the Company take such steps and give such notices as may be necessary to secure such an amendment to the Articles of Incorporation of this Company as will provide for the nomination of an equal number of directors by each of the parties of the second part in said contract and for such other changes in said Articles as are rendered necessary under said contract as hereby amended.

On motion of Jefferson S. Polk it was

Resolved, That W. H. Blodgett prepare a contract in accordance with the suggestions made in the resolutions heretofore passed, and if satisfactory, the parties sign, if not, that the Board of Directors be called together immediately.

On motion of J. F. How it was

Resolved, That the Superintendent estimate the wheelage for October 1888 in order to collect his interest on the basis of an average of the preceding five months and to be adjusted as soon as actually known.

G. M. Dodge moved the adoption of the following resolution, to-wit:

Resolved, That the Company proceed to build the Union Depot here at Des Moines as soon as they can obtain the necessary ordinances vacating and opening necessary streets and provide the Executive Committee shall complete the negotiations with the owners of the Oat Meal property,  
67 for the purchasing of that property.

Which motion after being duly considered was unanimously adopted.

It was

Resolved, That the term wheelage as used in contracts made by this Company shall be construed to cover not only the cars

of roads composing this Company, but all cars switched into or over said terminals from roads that do not participate in the use of said terminals. And such wheelage for switched cars shall be charged to the wheelage account of the railroad company for whose benefit or use said foreign cars shall have been brought on to said terminal tracks and in making said charges such foreign cars shall be charged one wheelage in and one wheelage out, the same as cars of the roads which participate in the use of said terminals.

Whereupon, the meeting adjourned.

F. M. HUBBELL, Secy.

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### **Defendants' Exhibit 106.**

#### **Des Moines Union Railway Company.**

Stockholders Meeting, January 8, 1889.

The Stockholders met this day, pursuant to adjournment, at the office of the Company in Des Moines, Iowa.

There were present: and represented at the meeting, the following named Stockholders of said Company, to-wit:

L. M. Martin, F. M. Hubbell, A. B. Cummins (to whom the share of stock owned by John S. Polk, was assigned) and A. X. Denman (to whom the share of stock owned by Jefferson S. Polk was assigned) and G. M. Dodge, whose stock was represented by L. M. Martin holding a proxy.

No other stock was represented.

On motion, L. M. Martin was elected Chairman and F. M. Hubbell Secretary of the meeting.

The Chairman then requested the reading of the minutes of the Board of Directors and Executive Committee for the past year, which was done and after consideration of the same, the action of the Board of Directors and of the Executive Committee as therein indicated was approved.

On motion, the meeting proceeded to the election of a Board of Directors for the ensuing year.

A. B. Cummins on behalf of the Wabash, St. Louis & Pacific Railway Company and of the Wabash Western Railway Company, nominated Charles M. Hays, W. H. Blodgett, James F. How and A. B. Cummins, to be voted for as directors to represent said Company: it having been certified to this meeting by the Secretary of the Wabash Western Rail-

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way Company, that the above named gentlemen had been duly nominated as candidates for Directors in this Company, on behalf of said Wabash Western Railway Company.

F. M. Hubbell on behalf of the Des Moines and North Western Railway Company, nominated A. N. Denman and F. M. Hubbell to be voted for as Directors to represent said Company,—their nomination as candidates having been certified to the meeting by the Secretary of the said Company.

L. M. Martin, on behalf of the St. Louis, Des Moines & Northern Railway Company nominated L. M. Martin and G. M. Dodge to be voted for as Directors to represent the interests of said Company; it having been certified to the meeting by the Secretary of the St. Louis, Des Moines & Northern, that the aforesaid gentlemen had been duly appointed as candidates for such position.

A ballot was then taken for the election of said Board of Directors, and it appearing that each of the above persons so named received the unanimous vote of the stock present and represented for such office were each declared Directors of this Company for the ensuing year.

On motion, Chas. M. Hays was appointed as member of the Executive Committee for the Wabash Western Railway Company.

F. M. Hubbell for the Des Moines & North Western Railway Company and

L. M. Martin for the St. Louis, Des Moines and Northern Railway Company.

70 Whereupon the Stockholders meeting on motion of A. B. Cummins adjourned.

F. M. HUBBELL, Secy.

71 **Defendants' Exhibit 107.**

**Des Moines Union Railway Company.**

Meeting of the Stockholders of the Des Moines Union Railway Co.

Des Moines, Iowa, January 3, 1890.

The Stockholders of the Des Moines Union Railway Company met in an adjourned meeting pursuant to adjournment at eleven o'clock A. M., at the office of the Company.

There were present :

G. M. Dodge, representing	one (1) Share
J. F. How, representing	one (1) Share
C. M. Hays, representing	one (1) Share
F. M. Hubbell, “	one (1) Share
L. M. Martin, representing	one (1) Share
F. C. Hubbell, “	one (1) Share

(the share represented by F. C. Hubbell having been transferred to him by A. N. Denman) and

A. B. Cummins, representing one (1) Share

The President, G. M. Dodge presiding.

The President stated the first business of the meeting to be the reading of the minutes of the previous meeting of the Stockholders held during the year 1889 and the minutes of the Directors meeting and of the Executive Committee and thereupon called upon the Secretary to read the same, which was done.

Mr. A. B. Cummins moved that the proceedings of the Stockholders meeting and the meeting of the Board of Directors, and of the Executive Committee be approved.

72 Motion was seconded and carried. The President stated the next business in order to be the election of Directors for the ensuing year, whereupon J. F. How on behalf of the Wabash Railroad Company operating the Des Moines & St. Louis Railroad Company, nominated Jas. F. How, C. M. Hays, W. H. Blodgett and A. B. Cummins to be voted for as Directors of the Des Moines Union Railway Company to represent the said Wabash Railroad Company, it having been certified to this meeting by the Secretary of the Wabash Railroad Company and Des Moines & St. Louis Railroad Company that the above named gentlemen had been duly nominated as candidates for Directors in this Company on behalf of the Wabash Railroad Company, and the Des Moines & St. Louis Railroad Company.

G. M. Dodge on behalf of the Des Moines & Northern Railway Company, successor to the St. Louis Des Moines & Northern Railway Company, nominated G. M. Dodge and L. M. Martin to be voted for as Directors of the Des Moines Union Railway Company to represent the said Des Moines & Northern Railway Company, it having been certified to this meeting by the Secretary of the Des Moines & Northern Railway Company that the above named gentlemen had been duly nominated as candidates for Directors in this Company on behalf of the Des Moines & Northern Railway Company.

F. M. Hubbell on behalf of the Des Moines & North Western Railway Company nominated F. M. Hubbell and F. C. Hubbell to be voted for as Directors of the Des Moines Union Railway Company to represent the said Des Moines & North Western Railway Company, it having been certified to this meeting by the Secretary of the Des Moines & North Western Railway Company, that the above named gentlemen had been duly nominated as candidates for Directors in this Company on behalf of the Des Moines & North Western Railway Company.

The ballot being taken resulted in the unanimous election of the persons nominated as Directors, and thereupon the President declared such persons duly elected to hold their respective offices for one year, or until their successors are duly elected and qualified.

The President then laid before the Stockholders a contract executed between the Des Moines Union Railway Company, the Des Moines & St. Louis Railroad Company, the Des Moines & North Western Railway Company and the St. Louis Des Moines & Northern Railway Company executed on the tenth day of May A. D. 1889, respecting the use of the terminal property and the payment of charges therefor which contract had been executed on behalf of the Des Moines Union Railway Company by its President and attested by its Secretary, for approval.

James F. How moved that the action of the officials of this Company in executing the contract be approved.

Motion was seconded and carried.

James F. How moved that the question of amending the Articles of Incorporation of this Company as well as the question concerning the issuing of stock for the purchase price of the terminal property be referred to Attorneys W. H. Blodgett & A. B. Cummins for their investigation and recommendation.

Motion was seconded and carried.

74 The President then had the following report of the Treasurer of the Company read.

Des Moines, Iowa, January 3, 1890.

Geo. G. M. Dodge, President,  
Des Moines Union Railway Company,  
Des Moines, Iowa.

Dear Sir:—

Below please see statement of bills rendered and unpaid to date.

Due from C. St. P. & K. C. R. R. on account of personal injuries .....	\$202 20
Due from C. St. P. & K. C. R. R. on account of November bills .....	\$2412 80
Due from D. M. & N. W. Ry. on account of September and October bills .....	\$1211 25
Due from Wabash Railroad Co. on account of November rental .....	\$746 27
Due from Des Moines Rapid Transit Co. ....	\$1012 20
Due from D. E. Garrison & Co. on account of old rails .....	\$400 11

Total.....\$4384 63

**Bills Payable.**

Due D. M. & N. W. Ry. Co. ....	\$200 00
Due Wabash Railroad .....	\$400 00
Miscellaneous .....	\$1500 00

Yours truly,

Signed, Horace Seely,

Treasurer.

75 James F. How moved that this meeting adjourn to meet upon the eighteenth day of February A. D. 1890 at eleven o'clock A. M.

Motion was seconded and carried.

F. M. HUBBELL, Secy.

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**Defendants' Exhibit 108.**

**Des Moines Union Railway Company.**

Meeting of the Directors of the Des Moines Union Railway Company.

Des Moines, Iowa, January 3, 1890.

Upon the adjournment of the meeting of the Stockholders of this Company, G. M. Dodge, J. F. How, C. M. Hays, F. M. Hubbell, L. M. Martin, F. C. Hubbell and A. B. Cummins of the persons chosen as Directors for the ensuing year, met at the office of the Company, whereupon G. M. Dodge was elected Chairman of the meeting.

He stated the first business before the meeting to be transacted, was the election of a President, Vice President, Secretary and Treasurer to hold their offices for the ensuing year, and until their successors were duly elected and qualified.

Upon ballot

G. M. Dodge was elected	President.
James F. How was elected	Vice President.
F. M. Hubbell was elected	Secretary.
Horace Seely was elected	Treasurer.

The directors then proceeded to the election of the Executive Committee and the following gentlemen were placed in nomination: James F. How nominated C. M. Hays on behalf of

the Wabash Railroad Company. F. C. Hubbell nominated F. M. Hubbell on behalf of the Des Moines & North Western Railway Company.

77 G. M. Dodge nominated L. M. Martin on behalf of the Des Moines & Northern Railway Company, successor to the St. Louis Des Moines & Northern Railway Company.

No other nominations being made the meeting proceeded to ballot, whereupon it was found that the persons placed in nomination had all been duly elected and they were declared to be the Executive Committee for the ensuing year, or until their successors are elected and qualified.

It being one o'clock P. M. the meeting took a recess until two o'clock.

Meeting reconvened at two o'clock P. M., being called to order by the President.

Mr. C. M. Hays offered the following resolution:

Resolved, that Messrs. Hubbell and Cummins be appointed a committee to call upon Mr. A. B. Stickney, President of the Chicago, St. Paul & Kansas City Railway, personally, and endeavor to have him carry out the terms of agreement which was practically consented to by General Manager Egan, in May last, and under which the other Companies have been working and if they are unable to do this, to report what recommendation they have to make to the Executive Committee in the matter.

Resolution was unanimously adopted.

Mr. C. M. Hays also offered the following resolution:

Resolved, that a deed from J. S. Polk made in pursuance of a contract between himself and the President of this Company respecting the purchase of lot eight (8) in block four (4) in the Original Town of Fort Des Moines be accepted and that bonds be issued to said J. S. Polk in accordance  
78 with the contract, and that the Trustee in the mortgage be requested to certify the same.

The resolution was unanimously adopted.

Mr. J. P. How offered the following resolution.

Resolved, That the Executive Committee as a body, or a portion of it confer with the officers of the Chicago, Burlington & Quincy Railroad, and the Chicago & North Western Railway and see if any arrangements can be made with the said Companies to enter into the joint use of the terminal facilities of this Company.

The resolution was unanimously adopted.

Mr. J. F. How also offered the following resolution.

Resolved, that the matter of renewing, replacing or rebuilding the bridge across the Des Moines River be left to the President and the Executive Committee with power to contract for the same.

The resolution was unanimously adopted.

Mr. A. B. Cummins offered the following resolution.

Resolved, that the President be authorized to enter into contract with F. M. Hubbell for the purchase of a strip of ground one hundred (100) feet wide off from the west side of Official Plat Lot two (2) of the southwest quarter of Section nine (9) and off the west side of Official Plat lot eight (8) in the northwest quarter of section nine (9) all in Township seventy eight (78) Range twenty-four (24) in the city of Des Moines, Iowa, the purchase price to be four thousand dollars (\$4000) payable in the bonds of the Company, the Company to build bank on right of way to be as high as high water mark, to the intersection with the Des Moines & Kansas City Railroad and to be built as soon as practicable, the bond of one thousand dollars (\$1000) to be delivered to Hubbell at time of execution of contract and deed to be executed when bank is built. If bank is not built within two years, the contract to be void and the one thousand dollar bond to be forfeited to Hubbell. The bank to the river to be built whenever that part of right of way is used by the Company. And that the Trustee be requested to certify the above mentioned bond. The resolution was unanimously adopted.

There being no further business before the meeting, Mr. C. M. Hays moved that this meeting adjourn.

Motion was seconded and carried.

F. M. HUBBELL, Secy.

### Defendants' Exhibit 109.

#### Des Moines Union Railway Company.

Meeting of the Stockholders of the Des Moines Union Railway Company. Des Moines, Iowa, February 18, 1890.

The Stockholders of the Des Moines Union Railway Company met in an adjourned meeting pursuant to adjournment at ten o'clock A. M. at the office of the Company in Des Moines, Iowa.

These were present in person:

F. M. Hubbell representing	one (1) Share
L. M. Martin, representing	one (1) Share
F. C. Hubbell, representing	one (1) Share
A. B. Cummins, representing	one (1) Share.

There were present by proxy:

G. M. Dodge, by L. M. Martin,	representing one (1) Share
J. F. How, by A. B. Cummins,	representing one (1) Share
C. M. Hays, by A. B. Cummins	representing one (1) Share
W. H. Blodgett, by A. B. Cummins	representing one (1) Share.

The meeting was called to order by the selection of L. M. Martin as Chairman, both President and Vice President being absent.

81 The secretary reported that notice of the meeting had been duly published and also reported that he had pursuant to the articles of incorporation notified each stockholder of the time place and object of this meeting, which notice contained the amendments proposed to be offered to the articles of incorporation.

Upon motion of A. B. Cummins the report of the Secretary was adopted and this meeting declared to be duly and legally called, for the purpose of considering and adopting or rejecting amendments to the Articles of Incorporation.

Thereupon A. B. Cummins presented certain amendments to the Articles of Incorporation.

Thereupon F. M. Hubbell moved that the meeting of stockholders do now adjourn for the purpose of having further opportunity to examine said amendments, to meet on Tuesday the 8th day of April 1890 at ten o'clock A. M., which

82 motion being seconded, was unanimously carried and thereupon the meeting of stockholders adjourned to meet as aforesaid.

Attest,

F. M. HUBBELL, Secy.

83

### Defendants' Exhibit 110.

#### Des Moines Union Railway Company.

Meeting of the Directors of the Des Moines Union Railway Company. Des Moines Iowa, April 8th, 1890.

The Board of Directors of the Des Moines Union Railway Company met in the regular monthly meeting.

Present in person :

Jas. F. How, C. M. Hays, F. M. Hubbell, L. M. Martin, F. C. Hubbell and A. B. Cummins.

Present by proxy duly filed with the Secretary :

G. M. Dodge, by L. M. Martin. H. D. Thompson by F. M. Hubbell.

C. M. Hays offered the following resolution.

Resolved, That the shares of the capital stock of this corporation of the par value of fifty thousand dollars sold by the Purchasing Committee of the Wabash St. Louis & Pacific Railway Company to F. M. Hubbell which sale has been ratified by the Des Moines & St. Louis Railroad Company, be approved and the transfer thereof to said Hubbell upon the books of the Company be and the same is hereby ordered.

C. M. Hays moved the adoption of said resolution and it was thereupon adopted by the vote of all the Directors.

A. B. Cummins offered the following resolution and moved its adoption.

Resolved, That the sale of fifty thousand dollars of the stock of this Company by the Purchasing Committee  
84 of the Wabash St. Louis & Pacific Railway Company to G. M. Dodge, ratified by the Des Moines & St. Louis Railroad Company be approved and the transfer thereof to said Dodge upon the books of the Company be and the same is hereby ordered.

The resolution was adopted by the vote of all the Directors of the Company.

Upon motion of C. M. Hays, the President and Secretary of the Company were authorized to execute contracts between the Chicago Rock Island & Pacific Railway Company, and the Des Moines and Fort Dodge Railroad Company and this Company respecting crossings about to be made between Eleventh and Twelfth Streets in the city of Des Moines such contract to be upon not less favorable terms than the drafts submitted to the meeting.

Upon motion it was ordered that C. M. Hays be added to the Committee composed of F. M. Hubbell and A. B. Cummins to settle existing controversy with the Chicago St. Paul & Kansas City Railway Company respecting the execution of a lease for the use of terminals.

Upon motion it was ordered that the Secretary be authorized to serve notice upon the Chicago St. Paul & Kansas City

Railway Company that the existing contract between it and this Company respecting the use of terminals be canceled at the expiration of the period named in it for such notice.

Upon motion it was ordered that inasmuch as J. S. Polk was not able to make a good title to Lot eight (8) in Block four (4) in the Original Town of Fort Des Moines that  
85 the deed tendered by him for such Lot be rejected and the contract for such purchase canceled and the bonds certified and to be used as the purchase price of said Lot be delivered to the Secretary of the Company.

Upon motion it was ordered that the Company purchase lot Eleven (11) in Block thirty three (33) in Keene & Poin-dexter's Addition to the city of Des Moines for the sum of three thousand dollars payable in bonds of the Company said bonds to be delivered whenever it is shown that the title is free and clear of incumbrances and a good and sufficient deed tendered therefor.

Upon motion the Board adjourned.

F. M. HUBBELL, Secy.

86

### **Defendants' Exhibit 110a.**

Know All Men By These Presents, That I, Chas. M. Hays, the undersigned, Stockholder (Director) in the Des Moines Union Railway Company of Des Moines, Iowa, do hereby constitute and appoint A. B. Cummins of Des Moines, Iowa, of my true and lawful attorney, with power of substitution, for me and in my name, to vote at a meeting of the Stockholders in said Company, due notice of which has been given, to be held at Des Moines, Iowa on the 24th day of June A. D. 1890, or at any adjournment thereof on all matters which may properly come before it, with all the powers I shall possess if personally present.

In Testimony Whereof, I have hereunto set my hand and seal  
this 23rd day of June, 1890.

CHAS. M. HAYS. (Seal)  
(Seal)

Witness

R. S. Logan.

..... hereby appoint, irrevocably, .....  
as ..... substitute with all the powers above given.

Witness ..... hand ..... seal ..... this .....  
 day of ..... 188...

..... (Seal)

..... (Seal)

Witness

.....

### Defendants' Exhibit 111.

#### Des Moines Union Railway Company.

Des Moines, June 24th, 1890.

The Board of Directors of the Des Moines Union Railway Company met pursuant to call at its office.

Present :

G. M. Dodge represented by L. M. Martin. L. M. Martin, F. M. Hubbell, F. C. Hubbell, H. D. Thompson. J. F. How represented by A. B. Cummins, Chas. M. Hays represented by A. B. Cummins, and A. B. Cummins.

Upon motion it was ordered that A. B. Cummins act as Chairman of the meeting.

The several proxies above named having been submitted to the Board they were approved and ordered to be filed with the Secretary.

The Chairman presented to the Board the contract signed in duplicate between the Des Moines Union Railway Company and the Chicago St. Paul & Kansas City Railway Company dated June 1st, 1890 signed on behalf of the Des Moines Union Railway Company by F. M. Hubbell and A. B. Cummins Committee and on behalf of the Chicago St. Paul & Kansas City Railway Company by A. B. Stickney President, said contract being one providing for the use of the terminal property by the Chicago St. Paul & Kansas City Railway Company and the compensation to be paid therefor.

Mr. Hubbell moved that the execution of the contract presented by the Chairman on behalf of the Des Moines Union Railway Company be ratified and approved, and the  
 88 same declared to be the contract of the Des Moines Union Railway Company and that the Secretary be directed to attest the same, and affix the seal of the Company thereto.

The motion was unanimously carried all the directors voting.

The Chairman presented a supplemental agreement between the Des Moines Union Railway Company, the Des Moines & St. Louis Railroad Company, Des Moines & North Western Railway Company and Des Moines & Northern Railway Company dated and executed May 15th 1890 providing for a different method of computing wheelage upon certain coal traffic of the Des Moines & Northern Railway Company.

Mr. Hubbell moved that the execution of the last named contract on the part of the Des Moines Union Railway Company, be ratified and approved.

The motion was unanimously adopted, all the directors voting.

The Chairman presented a contract between the Des Moines Union Railway Company and the Des Moines Street Railway Company, providing for a crossing on West First or Front Street, Des Moines, Iowa.

Upon motion of Mr. Hubbell it was unanimously ordered that said contract be approved, and the officers of the Company directed to execute the same.

The meeting then adjourned sine die.

F. M. HUBBELL, Secy.

89

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### **Defendants' Exhibit 112.**

#### **Des Moines Union Railway Company.**

Directors' Meeting. Des Moines, Iowa, September 10, 1890.

The Board of Directors of the Des Moines Union Railway Company met in special session, pursuant to a call duly issued and served.

There were present in person.

James F. How, Charles M. Hays, A. B. Cummins, L. M. Martin, H. D. Thompson and F. C. Hubbell.

There were present by proxy:

F. M. Hubbell represented by F. C. Hubbell, and G. M. Dodge represented by L. M. Martin.

The written proxies authorizing the said F. C. Hubbell and the said L. M. Martin to act respectively for the said F. M. Hubbell and G. M. Dodge, having been laid before the meeting, were approved and ordered to be filed with the Secretary.

Jas. F. How, Vice President Presiding.

Upon motion A. B. Cummins was elected temporary Chairman: Whereupon Charles M. Hays offered the following resolution:

Resolved, that the Executive Committee composed of F. M. Hubbell, Charles M. Hays and L. M. Martin, be and it is hereby authorized to secure, either by purchase or condemnation, whatever additional property and right-of-way, in its discretion, be necessary or convenient for the improvement and operation of the terminal station, depot freight houses and tracks with full power to do whatever may be necessary to complete such purchases or condemnation.

And the said Committee is further empowered and authorized to secure and approve plans and specifications for  
90 a new Union Passenger Station and freight house, with all supplemental buildings, to receive bids and award contracts for the erection and construction of the same, and to take whatever measures are necessary or convenient to the completion of the Terminal property in such respects.

Upon motion of A. B. Cummins said resolution was adopted by the affirmative votes of all the Directors of the corporation, and the same declared by the presiding officer to be adopted.

Upon motion of H. D. Thompson the Executive Committee was also empowered and authorized to approve or disapprove the proposed contract between the Des Moines Union Railway Company and the Des Moines & Kansas City Railway Company.

The motion was duly seconded and carried by the affirmative votes of all of the Directors of the corporation.

Upon motion of L. M. Martin the meeting of the Board of Directors adjourned.

F. M. HUBBELL, Secy.

91

### **Defendants' Exhibit 113.**

#### **Des Moines Union Railway Company.**

Meeting of the Executive Committee of the Des Moines Union Railway Company.

St. Louis, October 25, 1890.

Present:

Chas. M. Hays, L. M. Martin and F. M. Hubbell.

There was presented to the meeting a letter from Horace Seely, asking to have his salary as Superintendent, raised to two hundred (\$200) per month.

On motion, it was ordered that the salary of Mr. Seely be fixed at \$2,000 per annum, commencing November 1st, 1890.

On motion of C. M. Hays, the following resolution was unanimously adopted, viz:

Resolved, That Lots 4 and 5, Block 20, Original Town of Des Moines, be purchased from H. R. Heath for forty five thousand dollars (\$45,000) and the contract for such purchase now presented, be approved and executed: Also that the Company purchase Lot 10, the south third of Lot 4, all of Lot 3, Block 35, and the south third of Lot 9 Block 30 all in Original Town of Fort Des Moines: And Lot 1 of Getchell's sub-division of Lot 8, and part of Lot 7, in Block 18 of Hoxie's Addition; all now included in the city of Des Moines, Iowa.

The Chairman of the Executive Committee is authorized to make the purchases of above property, not already made, upon the most favorable terms possible: and if the same cannot be secured at reasonable prices, he is authorized to institute and carry forward proceedings to condemn the same, or any part thereof.

Resolved, further, that the title to all said property to conveyed to and vested in A. B. Cummins as Trustee, and that as much of the purchase price thereof as can be obtained in that manner shall be raised by a mortgage upon said premises, payable in not less than five years, with interest not exceeding six per centum and that the remainder thereof be procured by a temporary loan, with interest at six per centum, with the bonds of the Company as collateral security.

On motion of L. M. Martin, the following resolution was unanimously adopted, to-wit:

Resolved, that the Chairman be authorized to take the necessary proceeding to secure the vacation of Sixth, Seventh and Eighth Streets, from the South line of Cherry Street to the South line of the alley running East and West between Cherry and Vine Streets: Also the vacation of the alleys between fifth and Sixth, Sixth and Seventh, Seventh and Eighth and Eighth and Ninth Streets, between same points, and the east and west alley running between Cherry and Vine Streets, from the West line of Fourth Street to the center of Block 32, Keene & Poindexter's Addition. Also, so much of Thirteenth Street as lies south of the South line of Cherry Street, and so much of

Cherry Street as lies west of the West line of Thirteenth Street, all in the city of Des Moines.

On motion the Committee adjourned.

F. M. HUBBELL, Secy.

93

**Defendants' Exhibit 114.**

**Des Moines Union Railway Company.**

Meeting of the Executive Committee.

November 21st, 1890.

Whereas, it has been found impossible to borrow money to pay for the property purchased and authorized to be purchased by the Resolution adopted at a meeting of the Executive Committee held in St. Louis, October 20th, 1890, at less than eight (8) per centum payable semi-annually, it is therefore

Resolved, that the said money be borrowed with interest not to exceed eight (8) per centum payable semi-annually, instead of six (6) per centum as provided in said Resolution.

Resolved, that in pursuance of a resolution adopted by the Executive Committee, October 25th, 1890, the Company purchase from F. M. Hubbell, Lot one (1) of Getchell's sub-division of Lot eight (8) and part of Lot seven (7) Block Eighteen (18) Hoxie's Addition, for the sum of ten hundred and ninety five dollars (\$1095) and from A. B. Thompson, the south one-third of lot three (3) in Block thirty five (35) for twenty six hundred dollars (\$2600) and Lot ten (10) in Block thirty five (35) all in the original town of Fort Des Moines, for two thousand and eighty dollars (\$2080) and assume a mortgage of six thousand and seven hundred dollars (\$6700) and interest thereon, dated May 10th, 1890, all of said property being now included in the city of Des Moines, Iowa.

94 On motion the Committee adjourned.

F. M. HUBBELL,  
Secretary.

95

**Defendants' Exhibit 115.**

**Des Moines Union Railway Company.**

Meeting of the Stockholders of the Des Moines Union Railway Company.

February 11, 1891.

Pursuant to adjournment of the stockholders' meeting, the stockholders of this Company met at the office of the Company in Des Moines on this date. There were present,

G. M. Dodge,	Representing 500 shares	
Jas. F. How,	" 1	"
C. M. Hays,	" 1	"
F. M. Hubbell,	" 999	"
L. M. Martin,	" 1	"
F. C. Hubbell,	" 1	"
A. B. Cummins,	" 1	"

The Purchasing Committee of the Wabash, St. Louis & Pacific Railway Company, holding 498 "

Were represented by Jas. F. How.

The D. M. & N-W Railway Co. holding 998 "

was represented by F. C. Hubbell, Vice-Prest.

The Des Moines & Northern Ry. Co. " 998 "

Was represented by G. M. Dodge, President.

Making the Total amount of shares represented, 3998.

The President, G. M. Dodge, Presiding.

The President stated the first business of the meeting to be the reading of the minutes of the previous meeting of the stockholders held during the year 1890, and the minutes of the directors' meetings and of the Executive Committee, and  
96 thereupon called upon the Secretary to read the same, which was done.

Mr. A. B. Cummins moved that the proceedings of the stockholders' meeting and the meetings of the board of directors and of the Executive Committee be approved. The motion was seconded and carried.

The President stated the next business in order to be the election of directors for the ensuing year.

Jas. F. How, G. M. Dodge, C. M. Hays, F. M. Hubbell, L. M. Martin, F. C. Hubbell, A. B. Cummins and H. D. Thompson were nominated as directors, and it was ordered that the Secretary of this Company cast the vote of all the stock here represented, Viz: 3998 shares, for the gentlemen above named, which was accordingly done and the gentlemen nominated as above were declared elected as directors for the ensuing year.

Thereupon the meeting adjourned until Feb'y 12th, at 10 A. M.

F. M. HUBBELL,  
Secy.

**Defendants' Exhibit 116.****Des Moines Union Railway Company.**

Portion of record of directors' meeting, Des Moines Union Railway Company, February 11, 1891, not set out in plaintiff's exhibit No. 29.

It was ordered that the Executive Committee acquire the right of way across Lot 54 in Brooks & Company's Addition, upon which this Company is now paying \$100 per year rental for the use thereof.

It was ordered that the Treasurer furnish a detailed statement of the expenses properly chargeable to construction and to be paid for by the bonds of this Company which are included in the items as follows;

July, 1890, .....\$5560.42

Aug. 1890, ..... 3729.55

October, 1890, .... 1459.62

And report to the directors at their next meeting.

The following resolutions were then offered:

"Resolved that the purchase of lot eight (8) in block four (4), in the Original Town of Ft. Des Moines, from J. S. Polk, consummated during the month of ..... for which the Des Moines Union paid twelve thousand dollars (\$12,000.00) in bonds of the Des Moines Union Railway Company, be and the same is hereby approved by the Board of Directors.

98 "Resolved that the shares of the capital stock of this corporation of the par value of fifty thousand dollars sold by the purchasing committee of the Wabash St. Louis & Pacific Railway Company to F. M. Hubbell, which sale has been ratified by the Des Moines & St. Louis Railroad Company, be approved and the transfer thereof to said Hubbell upon the books of the company, be and the same is hereby ordered. Said stock after the transfer, is represented by stock certificates 2, 16, 17 and 18."

"Resolved that this company enter into a lease with F. M. Hubbell, for the use of so much of lots five (5) and six (6) in block forty-two, J. Lyon's addition, which it is now occupying with its terminals, the consideration being the payment of the taxes upon the property, the lease to be terminated upon three months notice by either party."

"Resolved that the purchase of lots seven (7) and eight (8) in block forty-nine (49), J. Lyon's addition, be left to the Executive Committee.

"Resolved that the report of Mr. F. M. Hubbell, Secretary under date of January 20th, 1891, in regard to the purchase of property authorized by the Board of Directors amounting to fifty-seven thousand four hundred and seventy-five dollars (\$57,475.00) is received and approved, and that in the event of the inability of the company to sell its bonds in time to take care of the interest and payment due on notes for purchase of property, as shown in letter of Mr. Hubbell of January 20th, 1891, the amount shall be apportioned between the three companies on the same basis as their wheelage expense during the month in which the same is made". The letter herein referred to is recorded on Page 117 of this Record.

"Resolved that the Executive Committee and the President be authorized to purchase the north one third (1/3) of lot nine (9) block twenty-five (25) in the Original Town of Ft. Des Moines; that they are also authorized to make such alterations and renewals as they may decide on the bridge over the Des Moines River in the city of Des Moines, and to construct a freight depot on block thirty-five (35) Original Town of Ft. Des Moines, coal chutes and double track. That the expenditure for this work and for the three lots already authorized to be purchased by resolutions adopted at preceding meetings of the Directors, but yet remaining to be purchased, shall not exceed sixty thousand dollars (\$60,000.) and that the officers of the company are authorized to dispose of bonds to pay this sum, the bonds to be disposed of at not less than ninety cents (90 cts.) on the dollar; also resolved that the amount to be expended in reconstructing the bridge, fifteen thousand dollars (\$15,000.) of it shall be charged to maintenance account."

All of the foregoing resolutions and orders were adopted by the unanimous vote of all of the directors.

100

### **Defendants' Exhibit 117.**

#### **Des Moines Union Railway Company.**

Meeting of the Board of Directors of the Des Moines Union Railway Company.

February 12, 1891.

Present, G. M. Dodge, L. M. Martin, C. M. Hays, F. C. Hubbell, H. D. Thompson, F. M. Hubbell, A. B. Cummins, by G.

M. Dodge, who held his Proxy, and Jas. F. How, by F. M. Hubbell who held his Proxy.

It was resolved that the Executive Committee is authorized as soon as a satisfactory ordinance is passed by the City Council of the City of Des Moines, to proceed with the construction of the union passenger station as soon as the plans are approved by the Committee, and if required, by the Board of Public Works.

Resolved, That Mr. Hays be authorized to procure plans for freight and union passenger station and pay such sum for them as he deems necessary therefor.

The above resolutions were passed by the unanimous vote of all the directors.

101

### Defendants' Exhibit 118.

#### Des Moines Union Railway Company.

Des Moines, Iowa, June 6th, 1891.

Meeting of the Board of Directors of the Des Moines Union Railway Company.

The Board of Directors met at the office of the Company in Des Moines, Iowa, on the 6th. day of June, 1891, at 12 o'clock M., pursuant to call regularly issued and served upon each of the Directors.

Present in person: F. C. Hubbell, H. D. Thompson and A. B. Cummins.

Present by Proxy, duly filed with the Secretary before the meeting convened: F. M. Hubbell, G. M. Dodge, L. M. Martin, Charles M. Hays and James F. How.

The Vice President presiding.

Upon motion F. C. Hubbell was chosen Secretary of the meeting.

The Vice President laid before the meeting a copy of the ordinance relating to a new passenger station at Des Moines, passed by the Council of the City of Des Moines on the 5th day of June, 1891, for their consideration, and thereupon H. D. Thompson moved that the Des Moines Union Railway Company, accept the said ordinance and its provisions, and that the Vice President be authorized to prepare, sign and file, with the City Clerk, Mayor and Council, the acceptance by the said Company of the ordinance as soon as the same has

received the approval of the Mayor of the City, or as soon as it shall otherwise become a legal ordinance of the City of Des Moines. The motion was seconded by F. C. Hubbell and received the affirmative votes of all the directors. Whereupon the Presiding Officer declared said motion to be adopted.

Upon motion the Board of Directors adjourned.

F. M. HUBBELL,  
Secy.

100

### Defendants' Exhibit 119.

#### Des Moines Union Railway Company.

Minutes of the Regular Annual Meeting of the Des Moines Union Railway Company, held at its office in Des Moines, on the 7th day of January, 1892.

The Stockholders of the Des Moines Union Railway Company met at its office in the City of Des Moines on the 7th day of January 1892."

There were present:

G. M. Dodge, by L. M. Martin, his proxy, representing, .....	5000	shares
C. M. Hays, .....	1	"
F. M. Hubbell, .....	9999	"
H. D. Thompson, .....	1	"
L. M. Martin, .....	1	"
F. C. Hubbell, .....	1	"
A. B. Cummins, .....	1	"
A. N. Denman, .....	1	"
J. F. How, by C. M. Hays, his proxy, representing, .....	1	"
The Purchasing Committee of the Wabash, St. Louis & Pacific Railway Company, by C. M. Hays, their proxy, representing .....	498	"
Des Moines, Northern & Western Railway Company, by its President, F. M. Hubbell, representing the stock formerly owned by the Des Moines & Northwestern Railway Company and the Des Moines & Northern Railway Company, representing .....	1996	"

(The said 1896 shares not having been transferred upon the books of the Company, the Des Moines & Northwestern Railway Company, by its President, F. M. Hubbell, and the Des Moines & Northern Railway Company, by its Vice President, A. B. Cummins, consented to the appearance and representation above stated.)

Total, ..... 40000 Shares

A. B. Cummins, Vice President, presiding.

104 The minutes of the last Stockholders' meeting, to-wit: that held on January 7, 1891, and Feb'y. 11th, 1891, and the minutes of all subsequent Directors' meetings and meetings of the Executive Committee were read, and upon motion, approved.

The Vice President stated the next business in order to be the election of eight directors for the ensuing year.

Thereupon G. M. Dodge, F. M. Hubbell, C. M. Hays, F. C. Hubbell, L. M. Martin, A. B. Cummins, H. D. Thompson, and A. N. Denman were nominated as directors, and upon motion, the Secretary of the Company was directed, by the unanimous vote of all the stock and stockholders present and represented, to cast the vote of all such stock, to-wit: 40000 shares, for the persons so nominated, which was accordingly done and thereupon said persons were declared to be the Directors of the Company for the ensuing year, and until their successors were elected and qualified.

Upon motion, the Meeting of the Stockholders adjourned to meet at three o'clock in the afternoon of said 7th day of January, 1892.

F. M. HUBBELL, Secy.

The Stockholders met at three o'clock on said day, pursuant to adjournment.

Present as before.

There being no further business to transact, on motion the meeting adjourned sine die.

F. M. HUBBELL, Secy.

A letter was read from Mr. Seely setting forth the requirements for the ensuing year upon which the following action was had.

It was ordered that a shop for the repairing of cars be constructed, to cost not to exceed \$1500, the same to be charged to construction account.

It was further ordered that all Narrow Gauge material on hands be disposed of at once.

It was also ordered that blue prints and estimate of cost of coal chutes be prepared and the same be submitted to Mr. Hays before any further action be taken in the matter.

On the question of a lathe for the Des Moines Union coming up it was decided that the D. M. Union would not purchase the same, but that the Des Moines Northern & Western Ry Co. would purchase one and place it in the D. M. Union shops and that when the lathe was used by either the D. M. Union or for the repairing of Wabash engines, that a charge for such usage would be made by the D. M. N. & W. against the Company for whom the service was rendered.

It was ordered that a payment for the property already purchased, including notes which were given for the same, which will fall due the coming year, shall be paid and charged to the constituent companies on the charge-back basis as heretofore.

It was ordered that only 6000 ties be purchased for renewals for the year 1892 and one mile of steel rail.

It was further ordered that the President take charge of the purchasing department for the ensuing year.

On motion the Committee adjourned.

F. C. HUBBELL,  
Secy. Pro Tem.

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### **Defendants' Exhibit 121.**

#### **Des Moines Union Railway Company.**

Des Moines, Aug. 2, 1892.

Minutes of the Regular Monthly Meeting of the Directors of the Des Moines Union Railway Company.

The Directors of the Des Moines Union Railway Company met in regular monthly meeting.

Present—L. M. Martin, F. C. Hubbell, H. D. Thompson, A. N. Denman and A. B. Cummins.

President F. C. Hubbell, presiding.

Minutes of the last meeting were read and approved.

The Superintendent of the Des Moines Union Railway Co., Horace Seely, laid before the meeting his report, showing expenditures charged to permanent improvements, and which enter the construction account for the period beginning May 1, 1891, and ending Apr. 1, 1892, as follows:

Yr. & Month.	Item	Wabash	D.M.&N.W.	D.M.&N.	Total	No.
1891						
May	Purchase Lot 10 Bl'k 35	\$1,379.46	\$ 495.19	\$ 804.95	\$2,679.60	1
June	Purchase Lots 7 and 8, Bl'k 49	\$ 480.00	\$ 99.38	\$ 170.62	\$ 759.00	2
July	Purchase N 2/3 Lot 3, Bl'k 35	\$3,100.86	\$1,446.71	\$1,715.85	\$6,263.42	3
Aug.	Purchase N 1/3 Lot 9, Bl'k 25	\$3,467.10	\$1,342.25	\$1,690.65	\$6,500.00	4
108	Yr. & Month.	Item	Wabash	D.M.&N.W.	D.M.&N.	Total No.
	Aug.	Costs paid in con- demnation suits	\$ 88.41	\$ 20.21	\$ 36.38	\$ 145.00 5
	Oct.	Bld'g New Fr't Hs	\$ 877.41	\$ 294.04	\$ 401.81	\$1,573.26 6
	Nov.	" " " "	\$1,150.89	\$ 381.05	\$ 523.12	\$2,055.06 7
	Dec.	" " " "	\$ 251.86	\$ 81.55	\$ 112.31	\$ 445.72 8
1892						
Jan.	Rep'rs Bridge #3017	\$6,560.43	\$5,029.83		\$11,590.26	9
		\$17,428.36	\$9,214.32	\$5,488.64	\$32,131.32	

Whereupon, A. B. Cummins offered the following preamble and resolution—

Whereas, the Des Moines Union Railway Company has expended for construction from May 1, 1891 to Apr. 1, 1892, the sum of \$32,131.32, of which sum the Wabash Ry. Co. has contributed \$17,428.36, and the Des Moines Northern & Western, or its predecessors, the Des Moines & Northwestern and Des Moines & Northern, have contributed \$14,702.96.

Now Therefore, Be it Resolved, that bonds of this Company be issued and delivered as follows:

Seventeen (17) bonds to the Wabash Railway Company, and fourteen (14) bonds to the Des Moines, Northern & Western Railway Company.

Be it further Resolved, that the President of the Company be authorized to withdraw twenty two (22) bonds from the Central Trust Company, Trustee, for the purpose indicated, and that the Trustee be requested to certify and deliver such bonds to the President.

109 Be it further Resolved that the President deliver said twenty two (22) bonds to the Treasurer, and that the Treasurer shall use the nine bonds now in his possession, and shall dispose of the entire number, to-wit, thirty one (31), as heretofore directed, to-wit: Seventeen (17) thereof shall be delivered to the Wabash Railway Co., and fourteen (14) thereof to the Des Moines Northern & Western Railway Co.

Upon motion, the meeting of the Board of Directors adjourned.

F. M. HUBBELL, Secretary.

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### **Defendants' Exhibit 122.**

#### **Des Moines Union Railway Company.**

November 4, 1892.

Minutes of the Adjourned Meeting of the Board of Directors of the Des Moines Union Railway Company.

Present—F. M. Hubbell, F. C. Hubbell, H. D. Thompson and A. N. Denman.

President F. C. Hubbell, presiding.

Minutes of the regular August meeting were read and approved.

H. D. Thompson, Treasurer, reported that he had withdrawn from the Trustee and sent to Col. J. F. How, Vice-President of the Wabash Railway Company, \$17,000.00 of the 5% bonds of the Des Moines Union Railway Company, being Nos. 585 to 601, both inclusive, in payment to the Wabash R'y. Company for money expended by them in construction in accordance with a resolution passed by the Board on August 2, 1892.

He also reported that he had withdrawn from the Trustee, and delivered to the Des Moines, Northern & Western R'y. Company in accordance with said resolution, Des Moines Union bonds to the amount of \$14,000.00, being Nos. 562, 563, 570, 571 and 575 to 584, both inclusive.

Thereupon, the action of the Treasurer was approved.

On motion, the Board adjourned.

F. M. HUBBELL, Secretary.

## Defendants' Exhibit 123.

## Des Moines Union Railway Company.

January 6th, 1893.

The Stockholders of the Des Moines Union Railway Company met at its office in the city of Des Moines, on this day, pursuant to adjournment.

There were present and represented—

G. M. Dodge, by his proxy, L. M. Martin, representing, .....	1 share
F. C. Hubbell, .....	1 "
F. M. Hubbell, .....	1 "
C. M. Hays, .....	1 "
L. M. Martin, .....	1 "
A. B. Cummins, .....	1 "
H. D. Thompson, by his proxy, F. M. Hubbell,...	1 "
A. N. Denman, .....	1 "
James F. How, by his proxy, C. M. Hays,.....	1 "
Pur. Com. Of Wabash, St. L. & Pac. R'y. Co.	
By its proxy, C. M. Hays, .....	498 "
D. M. N. & W. R'y. Co. by its President, F. M. Hubbell, stock owned by it, viz., .....	3493 "
Total, .....	4000 shares.

On motion, C. M. Hays was elected Chairman of the meeting and F. M. Hubbell, Secretary.

On motion, the minutes of all of the meetings of the Board of Directors, Stockholders, and Executive Committee, held during the year 1892, were read and approved, and all of the acts of the officers confirmed and ratified.

The Chairman stated the next business in order to be the election of eight (8) Directors for the ensuing year.

All of the stock of this company being represented, on motion, it was ordered, that the Secretary cast the vote of all of the stockholders and stock, for the following named persons as Directors for the ensuing year, viz: G. M. Dodge, C. M. Hays, L. M. Martin, H. D. Thompson, F. M. Hubbell, F. C. Hubbell, A. B. Cummins, and A. N. Denman, which vote having been duly cast by the Secretary, the above named persons were declared unanimously elected as Directors of the Company for the ensuing year and until their successors are elected and qualified.

It was ordered that A. B. Cummins prepare an amendment to the Articles of Incorporation looking to an increase of the

capital stock and execution of a new Trust Mortgage, and that the Secretary furnish each stockholder with a copy thereof, ten days before the second Wednesday in February, 1893; and that when this meeting adjourns, it shall adjourn to meet the second Wednesday in February next, to consider the proposed Articles of Incorporation, or amendments, whereupon the meeting adjourned until that date.

F. M. HUBBELL, Secretary.

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### **Defendants' Exhibit 124.**

#### **Des Moines Union Railway Company.**

Meeting of the Board of Directors, Jany. 6th, 1893.

The Board of Directors of this Company met at the office of the Company January 6th, 1893, after adjournment of the regular annual meeting of the Stockholders of this Company.

There were present and represented:

C. M. Hays, F. M. Hubbell, L. M. Martin, F. C. Hubbell, A. B. Cummins, and A. N. Denman,—Director G. M. Dodge being represented by a written proxy to L. M. Martin, duly filed, and Director H. D. Thompson by a written proxy to F. M. Hubbell, duly filed.

On motion, C. M. Hays was elected Chairman of the meeting, whereupon he stated the next business of the meeting to be the election of a President, Vice President, Secretary and Treasurer, to hold their offices during the ensuing year, and until their successors were duly elected and qualified.

It was moved that F. C. Hubbell be elected President, A. B. Cummins Vice President, F. M. Hubbell, Secretary, and H. D. Thompson, Treasurer.

These nominations being submitted to a vote of the Directors, each of the persons above named received the unanimous vote of all of the Directors, and were declared duly elected as follows:

F. C. Hubbell, .....	President.
A. B. Cummins, .....	Vice President.
F. M. Hubbell, .....	Secretary.
H. D. Thompson, .....	Treasurer.

114 F. C. Hubbell, President, presiding.

On motion of A. B. Cummins, duly seconded, F. C. Hubbell, C. M. Hays, and L. M. Martin were elected as members of the Executive Committee for the ensuing year.

Upon motion it was unanimously resolved that the Company build a passenger depot at a cost not to exceed \$40,000, provided that an ordinance can be procured vacating Sixth Street between Cherry and Vine Streets, and if necessary to procure such vacation, the President of the Company is authorized to purchase Lots 5 and 6 in Block 9 Fort Des Moines.

It was ordered that the Secretary of this Company give notice to the Chicago, St. Paul & Kansas City R'y Co., or its successors, the Chicago, Great Western R'y. Co., terminating the contract said Company has for the use of this Company's terminals, as soon as by its terms and provisions, it can be legally done.

The Superintendent of this Company, Horace Seely, laid before the meeting his report showing the expenditures charged to permanent improvements, and which enter into the construction account for the period beginning April 1st 1892 and ending December 31st 1892, to-wit:

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## STATEMENT

Month	Description	Wab. Pro.	D.M.N.&W.Pro.	Total
February	Cash in Hart case.	\$ 134.09	\$ 102.78	\$ 237.47
March	Purchase Lots 10 & 11 Block 30	\$ 194.72	\$ 156.03	\$ 350.75
April	Cutting down bluff	\$ 232.02	\$ 188.13	\$ 420.15
April	Legal Expense	\$ 176.72	\$ 143.28	\$ 320.00
April	Sheriff's Fees	\$ 9.86	\$ 7.99	\$ 17.85
April	Purchase Lot 10 Blk 35 Pattee & Bechtel notes	\$1304.60	\$1045.40	\$ 2350.00
May	Legal expense	\$ 11.90	\$ 10.10	\$ 22.00
June	Ex. bldg. new track	\$ 86.28	\$ 77.52	\$ 163.80
July	Cost condemn. & Pur. 8 1/2 Lot 4 Block 35	\$1852.97	\$1664.98	\$ 3517.95
July	Legal Expense	\$ 64.63	\$ 63.88	\$ 128.51
August	Engineering	\$ 10.00	\$ 11.00	\$ 21.00
September	Legal Expense	\$ 36.25	\$ 38.75	\$ 75.00
October	Legal Expense	\$ 10.20	\$ 11.40	\$ 21.60
November	Legal Expense	\$ 16.67	\$ 18.58	\$ 35.25
December	Pur. Cypher Lot	\$ 702.23	\$ 782.77	\$ 1485.00
		\$4843.74	\$4322.59	\$ 9166.33
	Balance from last year	428.36	\$ 702.96	\$ 1131.32
	Total.....	\$5272.10	\$5025.55	\$10297.65

Whereupon, A. B. Cummins offered the following preamble and resolution:

Whereas, the Des Moines Union Railway Company has expended for construction from April 1st 1892 to December 31st 1892, the sum of ten thousand two hundred ninety seven and 65/100 dollars (\$10,297.65) which includes the balance due on the settlement ordered to be made August 2nd 1892, of \$428.36 due the Wabash and \$702.96 due the Des Moines Northern & W. Ry Companies) of which sum the Wabash has contributed, .....\$5,272.10

the Des Moines Northern & Western, ..\$5,025.55    \$10,297.65

Now Therefore, Be it Resolved, that bonds of this Company be issued and delivered as follows: to-wit, Five (5) bonds to the Wabash Railway Company, and Five (5) bonds to the Des Moines, Northern & Western Railway Company.

Be it further Resolved that the President of this Company be authorized to withdraw Ten (10) bonds from the Central Trust Company Trustee, for the purpose indicated, and that the Trustee be requested to certify and deliver said bonds to the President of this Company.

Be it further Resolved, that the President shall deliver the said Ten (10) bonds to the Treasurer, and the Treasurer shall dispose of the entire number, to-wit, Five (5) bonds thereof shall be delivered to the Wabash Ry Co., and Five (5) bonds thereof shall be delivered to the Des Moines, Northern & Western Ry Co.

On motion, the Board adjourned.

F. M. HUBBELL,  
Secretary.

#### Defendants' Exhibit 125.

#### Des Moines Union Railway Company.

Des Moines, Iowa, Feb'y. 8, 1893.

The Board of Directors of the Des Moines Union Ry. Co. met pursuant to adjournment.

Present: A. B. Cummins, F. M. Hubbell, F. C. Hubbell, and H. D. Thompson. President F. C. Hubbell, presiding.

H. D. Thompson, Treasurer, reported that he had withdrawn from the Trustee and sent to Col. J. F. How, Vice Pres't. of the Wabash Ry. Co. five thousand dollars \$5,000, of the five (5) per cent bonds of the Des Moines Union Ry. Co., being No's. 602 to 606 both inclusive, in payment to the Wabash Ry. Co. for money expended by them in construction, in accordance with a resolution passed by the Board on January 6th, 1893.

He also reported that he had withdrawn from the Trustee, and delivered to the Des Moines, Northern & Western Ry. Co., in accordance with said resolution, Des Moines Union bonds to the amount of five thousand dollars, \$5,000, being Nos. 607 to 611 both inclusive.

On motion duly seconded the action of the Treasurer was approved.

Mr. Cummins not being prepared to report the Amended Articles of Incorporation.

On motion the Board adjourned to meet on the second Wednesday in March, 1893.

F. M. HUBBELL,  
Sec'y.

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**Defendants' Exhibit 126.**

**Des Moines Union Railway Company.**

Des Moines, April 18, 1893.

Adjourned meeting of the Board of Directors of the Des Moines Union Railway Company.

Present, F. M. Hubbell, F. C. Hubbell, H. D. Thompson, and L. M. Martin. President F. C. Hubbell presiding.

H. D. Thompson, Treasurer, presented a letter from Hollenbeck Bros. offering to move the Darby Gill brick building across the alley south on to the lot lately purchased of Luke O'Brien, and place same in as good condition as it now is, for one thousand dollars, \$1,000.00.

On motion, duly seconded, it was ordered that the Treasurer accept the offer of Hollenbeck Bros. and that the building be moved as soon as possible.

H. D. Thompson, Treasurer, stated there was no money in the treasury to pay Hollenbeck Bros. for moving the building as above provided, and that the firm of F. M. Hubbell & Son had offered to furnish the money, one thousand dollars, \$1,000.00, and receive payments in the rents of the building until the above amount was repaid, together with interest at eight per cent, 8%.

On motion duly seconded, the above proposition of F. M. Hubbell & Son was accepted and the Treasurer was ordered to

turn over the rents until said debt of \$1,000.00 was discharged in the manner provided.

On motion, the Board adjourned.

F. M. HUBBELL, Secy.

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**Defendants' Exhibit 127.**

**Des Moines Union Railway Company.**

Des Moines, Iowa, Oct. 4th, 1893.

Minutes of Adjourned Meeting of the Board of Directors of the Des Moines Union Railway Company.

The Board was called to order by the President F. C. Hubbell.

There were present, F. C. Hubbell, L. M. Martin, A. N. Denman, F. M. Hubbell, A. B. Cummins, and H. D. Thompson.

The Des Moines, Northern & Western Railway Company, by its President F. M. Hubbell, stated that they had found it necessary to transfer twenty-five hundred, 2500, shares of their stock in the Des Moines Union Ry. Co. to F. M. Hubbell & Son, by stock certificate No. 26, dated Oct. 4th, 1893, and asked that the Directors of this Company consent to the transfer above mentioned.

Whereupon it was moved by L. M. Martin that the Board of Directors of this Company hereby consent to the transfer of twenty-five hundred, 2500, shares of the stock of this Company to the said F. M. Hubbell & Son, as represented by stock certificate #26.

Said motion was seconded by H. D. Thompson, whereupon a vote was taken which resulted in the adoption of said resolution by the unanimous vote of all of the Directors present.

Whereupon the Board adjourned.

F. M. HUBBELL, Sec'y.

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**Defendants' Exhibit 128.**

**Des Moines Union Railway Company.**

Des Moines, Ia., Jan. 25, '94.

Minutes of Adjourned meeting of Stockholders of the Des Moines Union Railway Company.

The Stockholders of the Des Moines Union Railway Company met at the office of the Secretary, in the City of Des Moines, on this day pursuant to adjournment.

There were present and represented;

F. M. Hubbell, holding .....	1 Share.
H. D. Thompson " .....	1 "
F. C. Hubbell, by his proxy F. M. Hubbell, holding .....	1 "
L. M. Martin, holding .....	1 "
J. F. How, by his proxy, C. M. Hays, holding....	1 "
Chas. M. Hays holding .....	1 "
A. B. Cummins, by his proxy F. M. Hubbell, holding .....	1 "
G. M. Dodge, by his proxy L. M. Martin, holding.	1 "
A. N. Denman, holding .....	1 "
Pur. Com. Wab. St. L. & Pac. Ry, by its Proxy	
C. M. Hays, .....	498 "
D. M. N. & W. Ry, by its Prest. F. M. Hubbell, holding .....	993 "
F. M. Hubbell & Son, holding .....	2500 "
Total, .....	4000 "

On motion Mr. C. M. Hays was elected Chairman of the meeting and F. M. Hubbell was elected Secretary.

On motion the minutes and proceedings of all of the meetings of the Board of Directors, Stockholders, and Executive Committee, held during the year 1893, were read and approved and all of the acts of the Board of Directors and Officers done during the year, 1893, were confirmed and ratified.

The Chairman stated the next business in order to be the election of eight (8), Directors for the ensuing year. All of the stock of this Company being represented. On motion it was ordered that the Secretary cast the vote of all of the stockholders and stock for the following named persons as Directors for the ensuing year, viz.,

G. M. Dodge, C. M. Hays, L. M. Martin, H. D. Thompson, F. M. Hubbell, F. C. Hubbell, A. B. Cummins, and A. N. Denman, which vote having been duly cast by the Secretary, the above named persons were declared unanimously elected as Di-

rectors of this Company for the ensuing year and until their successors are elected and qualified.

On motion the Stockholders meeting adjourned sine die.

F. M. HUBBELL, Sec'y.

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**Defendants' Exhibit 129.**

**Des Moines Union Railway Company.**

Des Moines, Iowa, Jan'y. 25, 1894.

Minutes of the Meeting of the Board of Directors of the Des Moines Union Railway Company.

The Board of Directors of this Company convened at the office of the Secretary of the Company on January 25th, 1894, immediately after adjournment of the regular annual meeting of the Stockholders.

There were present and represented;

C. M. Hays, F. M. Hubbell, L. M. Martin, A. N. Denman, H. D. Thompson, Director G. M. Dodge by written proxy to L. M. Martin, duly filed, Director A. B. Cummins by written proxy to F. M. Hubbell duly filed, and Director F. C. Hubbell by written proxy to H. D. Thompson, duly filed.

On motion C. M. Hays was elected Chairman of the meeting, whereupon he stated the first business of the meeting to be the election of a President, Vice President, Secretary, and Treasurer, to hold their offices during the ensuing year and until their successors are duly elected and qualified.

It was moved that F. C. Hubbell be elected President, A. B. Cummins Vice President, F. M. Hubbell Secretary, and H. D. Thompson Treasurer. These nominations being submitted to a vote of the Directors, each of the persons above named received the unanimous vote of all of the Directors, and were declared duly elected as follows:

- 123 F. C. Hubbell, President,  
A. B. Cummins, Vice President,  
F. M. Hubbell, Secretary,  
H. D. Thompson, Treasurer.

On motion of H. D. Thompson, duly seconded, F. C. Hubbell, C. M. Hays, and L. M. Martin, were elected as members of the Executive Committee, for the ensuing year.

The Superintendent of this Company, J. A. Wagner, laid before the meeting his report of expenditures charged to per-

ment improvement, and which enter into the construction account for the period beginning Jan'y. 1st., 1893 and ending December 31st, 1893, as follows:

Month.	Description	Wab. Pro.	D.M.N & W Pro.	Total
Jan'y	Cost in Hart case	\$ 1 71	\$ 1 90	\$ 3 61
April.	Par. S. 1-3, Lot 9, Blk 30, O'Brien,	1279 04	1320 06	2600 00
April.	Par. S. 1-3, Lot 9, Blk. 30, Dauby Gill,	4659 36	5540 64	10200 00
April.	Right Way across Jacks. Plat, Lots 6 & 7 inc Blk. 6, W 30' Lots 1 & 17 inc. in 7 W 30' in Lots 1 & 16 inc. Blk. 8,	408 22	556 78	965 00
April.	Reconducing deed from Hubbell & Co. 1-3 Lot 9, S. 1-3 Lot 9, Blk. 30,	63	62	1 25
May.	Notice M. Rypher property,	5 23	6 60	11 83
June.	Side track Starch Wks.	1009 66	1360 22	2369 88
Nov.	New car repair shops	293 82	409 81	703 63
Total.....		\$7777 66	\$9387 30	\$17164 96
Balance ford. from 1892		272 10	72 05	344 15
Grand Total.....		\$8049 76	\$9459 35	\$17509 11

Whereupon A. B. Cummins offered the following preamble and resolution;

Whereas the Des Moines Union Railway Company has expended for construction from January 1st., 1893 to December 31st, 1893, the sum of seventeen thousand five hundred nineteen and 11-100 dollars, \$17,519.11, which sum includes the balance due on the settlement ordered to be made January 6th, 1893, of which sum the Wabash Ry. Co. has contributed, .....\$ 8049.76,  
D. M. N. & W. Ry. Co. has contributed.... 9459.35,

Total, .....\$17519.11,

Now Therefore Be It Resolved that bonds of this Company be issued and delivered as follows; Eight bonds to the Wabash Ry. Co. and nine 9, bonds to the Des Moines, Northern & Western Ry. Co.

Be it further Resolved that the President of this Company be authorized to withdraw seventeen bonds from the Central Trust Company, Trustee, for the purpose indicated, and

that the Trustee be requested to certify and deliver said bonds to the President of this Company.

Be it further Resolved, that the President shall deliver said seventeen, 17, bonds to the Treasurer and the Treasurer shall dispose of the entire number, to-wit; Eight bonds thereof shall be delivered to the Wabash Ry. Co., and Nine 9, bonds thereof shall be delivered to the Des Moines, Northern & Western Ry. Co. The Secretary then presented to the meeting a communication signed by O. L. F. Browne, Secretary of the Commercial Exchange, asking that this Company make a proposition to build a Union Passenger station in Des Moines, setting forth exactly what this Company asks to have done in the vacation and widening of streets and what this Company will do in return therefor; the cost of the proposed building finished, and the approximate terms upon which other Companies will be permitted to join in its erection and use.

125 Whereupon the following resolution was offered by C. M. Hays.

"Resolved that this Company make a proposition to the Committee of the Commercial Exchange having in charge the subject of the Union Passenger Railway Station, as follows:

First. The Company will require for such station, a continuous strip of ground from Fifth St. to Ninth St., unbroken by either streets or alleys crossing the same. It therefore will require the vacation of all streets and alleys lying between Fifth St. and Ninth St., running north and South, in so far as they cross the ground owned by the Company and which it proposes to use as a Union Passenger Railway Station; also the vacation and donation of the east and west alley between Cherry and Vine Sts., from Fifth to Ninth Sts.

Second. It will require the widening of Cherry St. by the addition of a strip of ground thirty-three, 33, feet wide upon the north side thereof from Fifth to Eighth Streets. This is absolutely essential in order to accommodate the business that will concentrate upon Cherry St. by reason of such passenger station.

Third. It will require that all damages, if any, caused by the vacation of said streets and alleys and the widening of Cherry St. be settled and adjusted without expense to the Company.

If the City or its citizens will cause the above changes to be made and things to be done, this Company will build a Union Passenger Depot sufficient to accommodate all of the

126 roads now doing business in Des Moines and constructed on a plan that will permit of future enlargement when necessary to meet the demands of the public. Such depot and train sheds shall cost presently not less than one hundred and fifty thousand dollars, \$150,000.00 and shall be commenced within three months from the time that said streets have been vacated and widened and the damages, if any, thereto, settled and adjusted, and shall be completed within eighteen, 18, months from the date of the commencement of the work. All the railroads not now occupying said terminal property, but entering the city of Des Moines, as well as all railroads hereafter entering Des Moines, shall be allowed to occupy said Union Passenger Station upon equitable terms respecting rental, maintenance, and operation; the basis of said equitable terms being the payment of such sum of money as will on the whole pay a fair interest upon the value of the property after the payment of all costs of maintenance and operation."

Having offered said resolution, said C. M. Hays moved its adoption, which motion, being duly seconded, was unanimously carried.

Whereupon the Board adjourned.

F. M. HUBBELL,  
Secretary.

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### Defendants' Exhibit 130.

#### Des Moines Union Railway Company.

Des Moines, Iowa, May 26, 1894.

Minutes of the Meeting of the Board of Directors of the Des Moines Union Railway Company, held at the Company's office this day in pursuance to a call issued by the President.

There were present and represented

F. M. Hubbell, L. M. Martin, A. N. Denman, F. C. Hubbell and A. B. Cummins, in person and Director H. D. Thompson by written proxy to F. M. Hubbell, duly filed with the Secretary, and Director G. M. Dodge by written proxy to A. B. Cummins, duly filed with the Secretary.

The meeting having been called to order by the President, the following preamble and resolution was offered by L. M. Martin, to-wit:

Whereas, lot number seven (7) in block number fifteen (15) of the Original Town of Fort Des Moines, Iowa, upon which

is situated this Company's passenger depot, is incumbered by a mortgage made by its former owner, to M. L. P. Hill for four thousand dollars (\$4,000) bearing interest at ten (10) per cent, and

Whereas, said mortgage is long past due and is about to be foreclosed unless payment is made, it is hereby

Resolved that the Treasurer of this Company is hereby directed to pay the amount of said mortgage and accrued interest, out of any funds in his hands, realized from rents of real estate, or from switching cars, and have said mortgage cancelled of record.

The above Resolution having been duly seconded and put to a vote was carried by the affirmative vote of the seven  
128 Directors present and represented.

F. M. Hubbell offered the following resolution, viz:

Resolved that the lease made by this Company for the east sixty (60) Feet of the south one-third ( $1/3$ ) of lot number three (3) in block number twenty (20) of the Original Town of Fort Des Moines to the Des Moines Steam Heating Company, be and is hereby ratified and approved.

This resolution having been seconded, was carried by the affirmative vote of all of the Directors present and represented.

Thereupon, A. B. Cummins offered the following resolution:

Resolved that the lease made by this Company to Edward F. Swift for the south one-third ( $1/3$ ) of lot number three (3) in block number twenty (20) in the Original Town of Fort Des Moines, Iowa, except the east sixty (60) feet thereof heretofore leased to the Des Moines Steam Heating Company, be and the same is hereby ratified and approved, and moved its adoption. Thereupon, the resolution was adopted by the affirmative vote of A. B. Cummins, F. M. Hubbell, F. C. Hubbell, L. M. Martin, A. N. Denman, H. D. Thompson, and G. M. Dodge.

A telegram was read from Charles M. Hays, suggesting that he could be present at a meeting of the Board of Directors of the Des Moines Union Railway Company, if held on Wednesday, May 30th.

On motion of F. M. Hubbell, the Board of Directors adjourned to meet at the office of the Secretary at ten  
129 o'clock a. m. on Wednesday May 30th, 1894.

F. M. HUBBELL, Secretary.

**Defendants' Exhibit 131.****Des Moines Union Railway Company.**

Des Moines, Iowa, May 30, 1894.

Minutes of the Adjourned Meeting of the Board of Directors of the Des Moines Union Railway Company held at the office of the Company at ten o'clock a. m. May 30th, 1894.

The Board of Directors met pursuant to adjournment, F. C. Hubbell, President, presiding.

There were present and represented: F. C. Hubbell, A. B. Cummins, L. M. Martin, A. N. Denman, and F. M. Hubbell, in person, and Directors G. M. Dodge and H. D. Thompson by written proxies duly filed with the Secretary.

A telegram having been received from Chas. M. Hays, stating that he could not be present at this meeting, but that he could be present at a meeting of the Board of Directors of the Des Moines Union Railway Company if held on June 7th, on motion of A. B. Cummins, duly seconded, the Board of Directors adjourned to meet on June 7th at ten o'clock a. m.

F. M. HUBBELL, Secretary.

**Defendants' Exhibit 132.****Des Moines Union Railway Company.**

Des Moines, Iowa, June 7, 1894.

Minutes of the Adjourned Meeting of the Board of Directors of the Des Moines Union Railway Company, held at the office of the Company at 10 o'clock on June 7th, 1894.

The Board of Directors met pursuant to adjournment, F. C. Hubbell President, presiding.

There were present in person, F. C. Hubbell, A. B. Cummins, L. M. Martin, A. N. Denman, F. M. Hubbell, and Charles M. Hays, and Directors G. M. Dodge and H. D. Thompson by written proxies duly filed with the Secretary.

The records of the meeting held May 26th, 1894, were read and the proceedings therein set forth were, on motion, unanimously approved and agreed to with the exception of the Resolution to pay the mortgage upon lot seven (7) in block fifteen (15) of the Original Town of Fort Des Moines amounting to \$4,000.00, out of the funds on hand realized from rents of real estate and from switching cars. On motion to approve this part of the record, Mr. Hays wanted further time.

The amendment to the contract existing between the Des Moines Union Railway Company, and the Chicago, St. Paul & Kansas City Railway Company, assumed by the Chicago Great Western Railway Company, entered into June 1st, 1890, was presented for approval. The terms thereof being substantially that the contract be extended after June 1, 1894 indefinitely, to be terminated upon three months' notice given by either party. The Chicago Great Western Ry Company to participate in the amount required to pay 5% interest on \$569,000 of mortgage bonds, and also 8% interest on \$50,775 of floating debt.

The contract was ratified and approved, and ordered to be recorded in the contract book of this Company.

F. M. HUBBELL,  
Secretary.

133

### Defendants' Exhibit 133.

#### Des Moines Union Railway Company.

Directors' Meeting. Des Moines, Iowa, July 10th, 1894.

Minutes of the Regular Monthly Meeting of the Directors of the Des Moines Union Railway Company, held at the office of the Company at 10 o'clock a. m. July 10th, 1894.

The Board of Directors met in regular session, F. C. Hubbell, President, presiding.

There were present and represented: F. C. Hubbell, A. B. Cummins, A. N. Denman, F. M. Hubbell and H. D. Thompson, in person, and Directors L. M. Martin and G. M. Dodge by written proxies to A. B. Cummins, duly filed with the Secretary.

H. D. Thompson, Treasurer, reported that in accordance with a resolution of the Board of Directors adopted at their meeting held January 25th, 1894, he had withdrawn from the Central Trust Company Trustee, seventeen (17) of the Des Moines Union Ry Co. bonds,—being bonds Nos. 612 to 628 both inclusive, with November 1st 1894 and subsequent coupons attached, and delivered eight (8) bonds thereof, Nos. 612 to 619, to the Wabash Ry Co. and nine (9) bonds thereof, Nos. 620 to 628 both inclusive, to the Des Moines Northern & Western Ry Co.

On motion of F. M. Hubbell, the Treasurer was directed to pay the Abbie Bechtel mortgage of two thousand dollars (\$2,000) with accrued interest thereon, upon the south forty-

four (44) feet of lot ten (10) in block thirty-five (35) Fort Des Moines, Iowa, upon which is situated in part, the Freight House of this Company; and upon payment of same to have the mortgage cancelled of record, provided, however, that the written consent of Chas. M. Hays could be procured. Carried unanimously.

F. M. HUBBELL, Secretary.

134

**Defendants' Exhibit 134.**

**Des Moines Union Railway Company.**

Des Moines, Iowa, August 14, 1894.

Minutes of the Regular Monthly Meeting of the Board of Directors of the Des Moines Union R'y Co. held at the office of the Company Aug. 14, 1894.

The Board of Directors met in regular session, F. C. Hubbell, President, presiding.

There were present and represented—F. C. Hubbell, A. B. Cummins, A. N. Denman, F. M. Hubbell, and H. D. Thompson, in person, and Directors L. M. Martin and G. M. Dodge by written proxies to A. B. Cummins, duly filed with the Secretary.

The Treasurer reported that Chas. M. Hays had given his written consent, dated June 19th 1894 to the payment of the M. L. P. Hill mortgage of four thousand dollars (\$4,000) and accrued interest, and that he had paid said mortgage in accordance with a resolution passed by the Board of Directors at their meeting held May 26th, 1894,—the amount of principal and interest being forty one hundred and eighty dollars (\$4,180) and that the mortgage had been duly satisfied of record.

The Treasurer also reported that he had the written consent of Chas. M. Hays, dated Aug. 9th, 1894, for the payment of the Abbie Bechtel mortgage, and that he had paid same in accordance with a resolution of the Board of Directors adopted at their meeting held July 10th 1894. The amount paid was two thousand and fifty six and 44/100 dollars (\$2,056.44), and that he had the mortgage duly cancelled of record.

These letters of consent from Mr. Hays have been attached to the original vouchers.

F. M. HUBBELL, Secretary.

**Defendants' Exhibit 135.**

**Des Moines Union Railway Company.**

Des Moines, Ia., Nov. 14, 1894.

Minutes of the Adjourned Meeting of Board of Directors of the Des Moines Union Railway Company, held at the office of the Company November 14, 1894.

The Board of Directors met pursuant to adjournment. F. C. Hubbell, President, presiding.

There were present and represented: F. C. Hubbell, A. B. Cummins, A. N. Denman, F. M. Hubbell, and H. D. Thompson, in person, and Directors L. M. Martin and G. M. Dodge, and Chas. M. Hays by written proxies to A. B. Cummins, duly filed with the Secretary.

On motion of A. B. Cummins the following resolution was passed, viz:

Whereas, lots four (4) and five (5) in block twenty (20) and lot ten (10) and the south one-third of lot three (3) in block thirty-five (35) of the Original Town of Fort Des Moines; and lot one (1) of Getchell's Sub-Division of a part of lot seven (7) and all of lot eight (8) in block eighteen (18) in Hoxie's Addition to Fort Des Moines, was ordered to be purchased by the Executive Committee of this Company, by a resolution passed October 25, 1890 and the title thereof was ordered to be conveyed to A. B. Cummins as Trustee, and he was authorized to execute a mortgage upon said property to secure \$20,000 of the purchase price of said lots. The remainder of the purchase price of said lots, to-wit, \$30,775.00 being secured by a pledge of sixty bonds of this Company as collateral to said debt.

136 And Whereas, it is desirable to renew said indebtedness at a lower rate of interest, Now Therefore, Be It Resolved by the Board of Directors of this Company that the Treasurer is hereby authorized and directed to pay out of the "Surplus Earnings" of this Company \$10,775.00 of the principal of said debt, leaving exactly \$40,000 still unpaid.

It is Further Resolved that A. B. Cummins as Trustee, be authorized and requested to obtain a satisfaction of any mortgage or mortgages given by him to secure the original indebtedness herein mentioned and to execute a new mortgage as Trustee, to the Commercial Bank of St. Louis upon the real estate above described, standing in his name as Trustee, to secure notes to the amount of \$40,000, as follows, all to be dated November 15th 1894:

- 1 Note for \$ 3,000 at six months.
- 1 Note for \$ 3,000 at twelve months
- 1 Note for \$ 3,000 at eighteen months
- 1 Note for \$ 3,000 at twenty-four months
- 1 Note for \$ 3,000 at thirty months
- 1 Note for \$ 3,000 at thirty-six months
- 1 Note for \$22,000 at thirty-six months

which the President and the Secretary of this Company are directed to execute, and with the money thus obtained to pay to the Equitable Life Insurance Company of Iowa the remainder of the above described debt held by that Company.

It is further Resolved that the Treasurer of this Company shall receive from the Equitable Life Insurance Company of Iowa the sixty (60) bonds of this Company held by it as  
137 collateral, and pledge them as collateral security to the renewal notes above mentioned, placing as far as practicable, \$4500 of bonds behind each \$3,000 of indebtedness.

It is further Resolved that the Treasurer of this Company is directed to pay the principal of the six notes of \$3,000 each at maturity, out of the future "Surplus Earnings" of this Company.

The words "Surplus Earnings" as herein used, mean that fund arising from the rentals of real estate and from switching charges.

Whereupon, the Board adjourned until November 19th 1894.

F. M. HUBBELL, Secretary.

138

### **Defendants' Exhibit 136.**

#### **Des Moines Union Railway Company.**

Des Moines, Iowa, Nov. 19, 1894.

Minutes of the Adjourned Meeting of Board of Directors of the Des Moines Union Railway Company, held at the office of the Company November 19th, 1894.

The Board of Directors met pursuant to adjournment. F. C. Hubbell President, presiding.

There were present and represented F. C. Hubbell, A. B. Cummins, A. N. Denman, F. M. Hubbell and H. D. Thompson, in person, and Directors L. M. Martin, G. M. Dodge, and Chas. M. Hays by written proxies to A. B. Cummins, duly filed with the Secretary.

On motion of A. B. Cummins, the following resolution was adopted:

Whereas, in pursuance of a Resolution passed by the Board of Directors of this Company on the 14th day of November, 1894, the President of this Company has negotiated with the Equitable Life Insurance Company of Iowa to extend and renew the remainder of this Company's indebtedness held by said Insurance Company, at six (6) per cent interest, the renewal notes to bear date, be in the denomination of and to run the length of time set out in the resolution above mentioned and

Whereas, the President and the Secretary of this Company in pursuance of the foregoing, have executed said notes amounting to forty thousand dollars (\$40,000) and have entered into an agreement with said Insurance Company to the effect  
139 that the notes last above mentioned are renewal and extension notes, for and on account of the old notes of this Company aggregating forty thousand dollars (\$40,000) and that said notes are not taken as payment of the old indebtedness represented by said old notes; that the mortgage and security given to secure the old notes and indebtedness shall stand as security for the new notes; that said old notes were given for the purchase money of said property described in said mortgages; and providing that this Company shall pledge to said Insurance Company as further security for said notes, sixty (60) bonds of one thousand dollars (\$1,000) each, Numbered 498 to 557 inclusive, of the Des Moines Union Railway Company, with the coupons attached,—it being a part of the issue of eight hundred thousand dollars (\$800,000) of bonds secured by mortgage on all of the property of said Railway Company; and that said bonds shall be delivered with said notes to said Insurance Company and be held by it as security in the same manner as held by said Company to secure the old notes herein mentioned; that the Railway Company may withdraw at the date of payment of each of said notes, a pro rata amount of said bonds, in value; that in case either of said notes shall not be paid when it matures, the holder of said notes may declare all of said notes at once due and payable and may at once foreclose said mortgage.

Now Therefore, be it Resolved by the Board of Directors of this Company that the Acts and doing of the Officers of this Company in the execution and delivery of the renewal notes  
above mentioned, and the agreement between this Com-  
140 pany and said Insurance Company above referred to, and the pledge of the sixty (60) bonds herein referred to, are ratified and confirmed in every respect.

Whereupon the Board adjourned until Nov. 30, 1894.

F. M. HUBBELL, ,  
Secy.

**Defendants' Exhibit 137.****Des Moines Union Railway Company.**

Des Moines, Ia., Novr. 30, 1894.

Minutes of the Adjourned Meeting of Board of Directors of the Des Moines Union Railway Company held at the office of the Company November 30, 1894.

The Board of Directors met pursuant to adjournment. F. C. Hubbell President, presiding.

There were present and represented: F. C. Hubbell, A. B. Cummins, A. N. Denman, F. M. Hubbell, and H. D. Thompson, in person, and Directors L. M. Martin, G. M. Dodge, and Chas. M. Hays by written proxies to A. B. Cummins, duly filed with the Secretary.

On motion of A. B. Cummins the following resolution was adopted:

Whereas, The Equitable Life Insurance Company of Iowa has requested that the note of this Company for \$22,000.00 executed as a renewal of this Company's floating debt and dated November 15, 1894, be cancelled and in lieu thereof, that notes of same date, one for \$20,000 and one for \$2,000, both running 36 months at 6% be executed and delivered to it,

And that the numbers of this Company's bonds pledged as collateral to each particular note be designated by this Board,

Therefore, Be it Resolved, that the President and the Secretary of this Company are hereby directed to make, execute and deliver to said Insurance Company, two notes of this Company each dated November 15, 1894, one for \$20,000 and one for \$2,000, both running 36 months at 6% and receive from said Company the \$22,000 note above referred to, and cancel the same, and

142 That our Treasurer is hereby directed to pledge as collateral in the following manner the 60 Des Moines Union Railway Company bonds now standing as security for said floating debt as follows:

For Note of \$3,000 at 6 months, Bonds Nos. 498, 499, 500, 501 and 502.

For Note of \$3,000 at 12 months, Bonds Nos. 503, 504, 505 and 506.

For Note of \$3,000 at 18 months, Bonds Nos. 507, 508, 509, 510 and 511.

For Notes of \$3,000 at 24 months, Bonds Nos. 512, 513, 514 and 515.

For Notes of \$3,000 at 30 months, Bonds Nos. 516, 517, 518, 519 and 520.

For Note of \$3,000 at 36 months, Bonds Nos. 521, 522, 523 and 524.

For Note of \$2,000 at 36 months, Bonds Nos. 525, 526 and 527.

For Note of \$20,000 at 36 months, Bonds Nos. 528 to 557, both inclusive.

Making a total of 60 Bonds of par value \$60,000.00, which are hereby pledged according to the above schedule, as collateral security for the \$40,000 of notes as above set out.

It is further Resolved, that the contract entered into November 14th, 1894, between this Company and the Equitable Life Insurance Company of Iowa, renewing and securing said indebtedness, be set aside and cancelled, and that the contract this day entered into between said above described parties, in relation to the renewal and securing of said debt is hereby ratified and confirmed in every respect, and is recorded in this book Pages 168 to 170.

Whereupon the Board adjourned sine die.

F. M. HUBBELL,  
Secretary.

143

### Defendants' Exhibit 138.

#### Des Moines Union Railway Company.

#### Stockholders' Meeting.

Des Moines, Ia. February 14th, 1895.

Minutes of the Adjourned Meeting of the Stockholders of the Des Moines Union Railway Company.

The Stockholders of the Des Moines Union Ry. Company met at the office of the Secretary, in the City of Des Moines, on this day, pursuant to adjournment.

There were present and represented—

F. M. Hubbell, holding .....	1 Share
H. D. Thompson, holding .....	1 "
F. C. Hubbell, by his proxy, F. M. Hubbell, holding .....	1 "
L. M. Martin, by his proxy, H. D. Thompson, holding .....	1 "
H. L. Magee, holding .....	1 "
Chas. M. Hays, holding .....	1 "
A. B. Cummins, by his proxy, F. M. Hubbell, holding .....	1 "
A. N. Denman, by his proxy, F. M. Hubbell, holding .....	1 "
Per. Com. Wabash, St. L. & P. Ry. Co., By its proxy, Chas. M. Hays, holding .....	498 Shares
D. M. S. & W. Ry. Co., By its President, F. M. Hubbell, holding .....	994 "
F. M. Hubbell & Son, holding .....	2500 "
Total .....	4,000 Shares.

On motion, C. M. Hays was elected Chairman of the meeting, and F. M. Hubbell was elected Secretary.

On motion, the minutes and proceedings of all meetings of the Board of Directors and Stockholders held during the year 1894, were read and approved and all of the acts of  
 144 the Board of Directors and Officers done during year 1894, were confirmed and ratified.

The Chairman stated the next business in order to be the election of eight (8) Directors for the ensuing year. All of the stock of this Company being represented, on motion, it was ordered that the Secretary cast the vote of all of the stockholders and stock, for the following named persons as Directors for the ensuing year, viz:

Chas. M. Hays, L. M. Martin, H. D. Thompson, F. M. Hubbell, F. C. Hubbell, A. B. Cummins, A. S. Denman, and A. L. Magee, which vote having been duly cast by the Secretary, the above named persons were declared unanimously elected as Directors of this Company for the ensuing year, and until their successors are elected and qualified.

On motion, the Stockholders Meeting adjourned, subject to call of the President.

F. M. HUBBELL, Secretary.

145

### Defendants' Exhibit 139.

#### Des Moines Union Railway Company.

Directors' Meeting.

Des Moines, Ia., February 14th, 1895.

Minutes of the Board of Directors Meeting.—Des Moines Union Railway Company.

The Board of Directors of this Company conveyed at the office of the Secretary of the Company, February 14th 1895, immediately after the adjournment of the Adjourned annual Meeting of the Stockholders.

There were present and represented—

Chas. M. Hays, F. M. Hubbell, A. S. Denman, H. D. Thompson, H. L. Magee, A. B. Cummins and F. C. Hubbell, in person, and Director L. M. Martin by written proxy to A. B. Cummins, duly filed.

On motion, C. M. Hays was elected Chairman of the meeting, whereupon he stated the first business of the meeting to be the election of the following officers, viz: President, Vice President, Secretary, and Treasurer, to hold their office during the ensuing year, and until their successors are duly elected and qualified.

It was moved that F. C. Hubbell be elected President, A. B. Cummins Vice President, F. M. Hubbell, Secretary, and H. D. Thompson, Treasurer. These nominations being submitted to a vote of the Directors, each of the above named persons received the unanimous vote of all of the Directors, and were declared elected as follows:

F. C. Hubbell, President,  
F. M. Hubbell, Secretary,  
A. B. Cummins, Vice President,  
H. D. Thompson, Treasurer.

On motion of F. M. Hubbell, duly seconded, F. C. Hubbell, Chas. M. Hays and H. D. Thompson were elected as members of the Executive Committee for the ensuing year.

146 Whereupon, the Board adjourned.

F. M. HUBBELL, Secretary.

147

### Defendants' Exhibit 140.

#### Des Moines Union Railway Company.

##### Stockholders' Meeting,

January 2, 1896.

Minutes of the Annual Meeting of Stockholders of the Des Moines Union Railway Company, held at the office of the Secretary of the Union Railway Company, held at the office of the Secretary of the Company, January 2, 1896.

There were present and represented—

D. M. N. & W. R. R. Co.,

By its President, F. M. Hubbell, holding.....	998 Shares
F. M. Hubbell & Son, holding.....	2485 "
F. C. Hubbell, by F. M. Hubbell, his proxy.....	1 "
H. D. Thompson, holding.....	1 "
L. M. Martin, holding.....	1 "
A. B. Cummins, holding.....	1 "
A. S. Denman, holding.....	1 "
H. L. Magee, holding.....	1 "
Jas. Ramsey, Jr., holding.....	1 "
C. Huttenlocher, holding.....	1 "
Per. Com. Wabash, St. L. & Pac. R. R. Co.,	
By its proxy, Jas. Ramsey, Jr., holding.....	498 "

Total.....4,000 Shares

constituting all of the stock of the Company.

On motion duly seconded, Joseph Ramsey, Jr., was elected Chairman and F. M. Hubbell Secretary of the meeting.

On motion, duly seconded, all of the minutes of all of the meetings of the Board of Directors and Stockholders of the Company held during the year 1895, were read and  
148 approved and all of the acts and doings of the Executive Committee, Board of Directors, and officers done during the year 1895, were confirmed and ratified.

The Chairman stated the next business in order to be the election of eight (8) Directors for the ensuing year.

All of the stock of the Company being represented, on motion it was ordered that the Secretary cast the vote of the stockholders and stock for the following named persons as Directors for the ensuing year, viz: Joseph Ramsey, Jr., H. L. Magee, F. M. Hubbell, F. C. Hubbell, H. D. Thompson, A. B. Cummins, A. N. Denman, and C. Huttenlocher, which vote having been cast by the Secretary, the above named persons were declared unanimously elected as Directors of this Company for the ensuing year, and until their successors are elected and qualified.

On motion the Stockholders' Meeting adjourned sine die.

F. M. HUBBELL, Secy.

149

#### **Defendants' Exhibit 141.**

#### **Des Moines Union Railway Company.**

Thursday.

Directors' Meeting,

Des Moines, Iowa, January 2, 1896.

Minutes of the Meeting of the Board of Directors of the Des Moines Union Railway Company.

The Board of Directors of this Company convened at the Office of the Secretary of the Company January 2, 1896, immediately after the adjournment of the Annual Meeting of the Stockholders.

There were present and represented.

Joseph Ramsey, Jr., F. M. Hubbell, A. N. Denman, H. D. Thompson, H. L. Magee, A. B. Cummins and C. Huttenlocher in person, Director F. C. Hubbell, being represented by written proxy to F. M. Hubbell duly filed.

On motion Jos. Ramsey Jr. was elected Chairman of the meeting. Whereupon he stated the first business of the meeting to be the election of the following officers, viz: President, Vice President, Secretary and Treasurer, to hold their offices during the ensuing year and until their successors are duly elected and qualified.

It was moved that the following named persons be elected: F. C. Hubbell, President; A. B. Cummins, Vice President, F. M. Hubbell, Secretary and H. D. Thompson, Treasurer. These nominations being submitted to a vote of the Directors, each of the above named persons received the unanimous vote of all of the Directors, and were declared elected as follows:

F. C. Hubbell President  
A. B. Cummins Vice President  
F. M. Hubbell Secretary  
H. D. Thompson, Treasurer.

150 On motion of F. M. Hubbell, duly seconded, F. C. Hubbell Jos. Ramsey, Jr. and H. D. Thompson were elected as members of the Executive Committee for the ensuing year.

The following resolution was offered by Jos. Ramsey, Jr., seconded by F. M. Hubbell, and adopted, to-wit:

"Resolved, that the Executive Committee of this Company be authorized to submit a proposition to the Des Moines & Kansas City Railway Company for the building of a bridge across the Raccoon River at the south end of this Company's right of way, together with the tracks approaching said bridge, extending southwardly to the crossing of the Des Moines & Kansas City Railway, said bridge to be used jointly by this Company and its tenants, to-wit: This Company will sell to the Des Moines & Kansas City Railway Company its 30-year, 5% First Mortgage Bonds for a sum sufficient to pay for said bridge and tracks. This Company to proceed immediately to build the bridge and tracks above mentioned and the Des Moines & Kansas City Railway Company to have the right to use said bridge and tracks by paying interest at the rate of five (5) per centum upon one-half of the cost thereof, and one-half of the maintenance, repairs and taxes. This contract to be binding on the Des Moines Union Railway Company for twenty (20) years, and the Des Moines & Kansas City Ry. Company to have the right to elect to cancel the contract at the end of ten (10) years."

But before the contract shall be entered into, it shall be approved by the Board of Directors or the Executive Committee.

The following resolution was offered by Mr. Ramsey, seconded by Mr. Hubbell, and passed unanimously.

151    "Resolved that the President of this Company be authorized to continue negotiations with the Chicago Great Western Railway Company for a permanent lease of this Company's terminals in accordance with the suggestions made at this meeting, and when the Companies have proceeded so far as to make it seem desirable, that the Executive Committee be called together to consider the contract formulated by the President."

No contract to be entered into until approved by the Board of Directors or the Executive Committee.

The Secretary presented to the Board the following leases, contracts, etc., for the examination of the Board, to-wit:

1. A contract dated May 16, 1895, between the Des Moines & Kansas City Ry. Co. and this Company in regard to the use by the Des Moines & K. C. Ry. Co. of this Company's track in block seven (7) of Hoxie's Addn., known as the "Elevator Switch."

2. A crossing contract dated June 10, 1895, authorizing the Des Moines City Ry. Co. to cross this Company's tracks on East Fourth Street.

3. A trackage contract dated August 31st, 1895, between the Wabash R. R. Co. and this Company authorizing this Company to use the Wabash tracks as far east as to a connection with the switch tracks of the Carbondale Coal Company a distance of ..... miles.

4. A contract dated September 7th 1895 between J. F. Vincent and this Company whereby he agrees to deed  
152    to this Company a strip of ground 26 feet wide across the north side of lots two (2) and four (4) of the Official Plat of lots fifteen (15) sixteen (16) seventeen (17) and eighteen (18) of Younts Addn. for the purpose of reaching said Vincent's Stock Yards.

5. A crossing contract dated October 4, 1895 between the Des Moines & Kansas City Ry. Co. and this Company, authorizing this Company to cross the Des Moines & K. C. Ry. tracks in official Plat lot eight (8) of the northwest quarter ( $\frac{1}{4}$ ) of Section nine (9) Township seventy-eight (78) Range twenty-four (24).

6. A lease dated October 10, 1895 made by the C. R. I. & P. Ry. Co. to this Company for a strip of ground about one

thousand (1000) feet long in the East half ( $1\frac{1}{2}$ ) of the north-west quarter ( $\frac{1}{4}$ ) of Section Eight (8) Township seventy-eight (78) Range twenty-four (24) upon which is laid this Company's main track and which is south of and adjoining the 18 ft. strip of ground sold by the C. R. I. & P. Ry. Co. to this Company on the date last above named.

7. A crossing contract and agreement dated December 2nd, 1895 between this Company and the C. B. & Q. Ry. Co. for the crossing of its main line, to reach the Stock Yards, etc.

8. A contract dated December 11th, 1895 between the Des Moines Union Ry. Co. and J. F. Vincent, whereby the said Vincent agrees that in case the C. B. & Q. Ry. crosses our tracks on the north side of the 26 ft. strip of ground 153 north of the Stock Yards, he will pay the expense of the crossing and maintenance of the same.

9. A contract dated December 11th, 1895 between this Company and the Des Moines City Ry. Co. authorizing the latter Company to cross this Company's tracks on Scott Str. near 17th Street.

Said contracts, leases, etc., having been examined by the Board, they were all of them unanimously approved, whereupon the Board adjourned sine die.

F. M. HUBBELL, Secretary.

154

### **Defendants' Exhibit 142.**

#### **Des Moines Union Railway Company.**

Directors' Meeting, Des Moines, Iowa, November 11th, 1896.

The Board of Directors of this Company convened at the office of the Secretary of the Company, on this 11th day of November, 1896 pursuant to call duly issued and served.

There were present and represented the following Directors: F. M. Hubbell, H. D. Thompson, F. C. Hubbell, A. N. Denman, A. B. Cummins and C. Huttenlocher, in person, and Directors J. Ramsey, Jr., and H. L. Magee by written proxies to F. M. Hubbell, duly filed,—

F. C. Hubbell, President, presiding.

The contract entered into between this Company and the Chicago Great Western Railway Company, dated July 2nd 1896, for the use of this Company's terminals, was presented to the Board of Directors for approval, and thereupon, H. D. Thompson offered the following resolution, viz:

"Resolved, by the Board of Directors of the Des Moines Union Railway Company, that the contract bearing date July 2nd, 1896 entered into by and between the Des Moines Union Railway Company and the Chicago Great Western Railway Company, which contract has been signed by their respective Presidents and Secretaries, and which consists of 22 sections covering 18 pages, be and the same is hereby ratified, approved, and in all respects confirmed on part of the Des Moines Union Railway Company, and the Secretary of this Company is hereby authorized to attach to said contract a certified copy of this resolution," and moved its adoption, which was seconded by A. N. Denman, and thereupon the President put said resolution on its passage, calling for the ayes and nays. The vote resulted in all of the Directors (eight in number) voting aye, and the resolution was declared unanimously adopted.

There was then presented to the Board of Directors, the Supplemental contract bearing date July 2nd, 1896, between the Des Moines Union Railway Company and the Chicago Great Western Railway Company, specifying particularly when possession of lots #1 and #8 in block #4 of the Original Town of Fort Des Moines, should be given, and as to the time the main contract should take effect, whereupon, F. M. Hubbell offered the following resolution:

"Resolved, by the Board of Directors of the Des Moines Union Railway Company, that the supplemental contract bearing date July 2nd 1896, entered into by and between the Des Moines Union Railway Company and the Chicago Great Western Railway Company which contract has been signed by their respective Presidents and Secretaries be and the same is hereby ratified, approved, and in all respects confirmed on part of the Des Moines Union Railway Company, and the Secretary of this Company is hereby authorized to attach to said contract a certified copy of this resolution."

and moved its adoption, which was seconded by A. B. Cummins, and thereupon the President put said resolution on its passage, calling for the ayes and nays. The vote resulted in all of the Directors (eight in number) voting aye, and the resolution was declared unanimously adopted.

Whereupon the meeting adjourned.

F. M. HUBBELL, Secretary.

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**Defendants' Exhibit 143.****Des Moines Union Railway Company.**

Stockholders' Meeting, Wednesday, March 10th, 1897.

Annual Meeting of Stockholders adjourned from January 7th, 1897 to March 10th, 1897.

Minutes of the Annual Meeting of Stockholders of the Des Moines Union Railway Company, held at the office of the Secretary of the Company, March 10th, 1897.

There were present and represented:

D. M. N. & W. R. R. Co., By its Prest. F. M. Hubbell, holding.....	998 Shares
F. M. Hubbell & Son, holding.....	2495 Shares
F. M. Hubbell, holding.....	2 Shares
F. C. Hubbell, holding.....	1 Share
H. D. Thompson, holding.....	1 Share
A. B. Cummins, holding.....	1 Share
A. N. Denman, holding.....	1 Share
C. Huttenlocher, holding.....	1 Share
H. L. Magee, holding.....	1 Share
Jos. Ramsey, Jr., holding.....	1 Share
Purchasing Com. Wab. St. L. & Pac. Ry. Co., By its proxy, Jos. Ramsey, Jr., holding.....	498 Shares
Total.....	4000 Shares

constituting all of the stock of the Company.

On motion duly seconded, Jos. Ramsey, Jr., was elected Chairman and F. M. Hubbell Secretary of the meeting,

Thereupon, the reading of the minutes of the meetings of the stockholders and directors for the year 1896 was called for, and said minutes having been read,

On motion duly seconded, the minutes of all of the meetings of the stockholders and directors, held during the year 1896 were approved and all of the acts and doings of the Executive Committee Board of Directors and Officers done during the year 1896, were confirmed and ratified.

The Chairman stated the next business in order to be the election of eight Directors for the ensuing year.

All of the stock of the Company being represented, on motion duly seconded, it was ordered that the Secretary cast a vote of the stockholders and stock for the following named persons as Directors, for the ensuing year, viz: Jos. Ramsey, Jr., H. L. Magee, F. M. Hubbell, F. C. Hubbell, H. D. Thompson, A. N. Denman, A. B. Cummins and C. Huttenlocher, which vote having been cast by the Secretary, the above named per-

sons were declared unanimously elected as Directors of the Company for the ensuing year, and until their successors are duly elected and qualified.

On Motion, the Stockholders' Meeting adjourned sine die.

F. M. HUBBELL, Secretary.

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### **Defendants' Exhibit 144.**

#### **Des Moines Union Railway Company.**

Directors' Meeting, Des Moines, Iowa, March 10, 1897.

Minutes of the Meeting of Board of Directors of the Des Moines Union Railway Company.

The Board of Directors of this Company convened at the office of the Secretary of the Company March 10th, 1897, immediately after adjournment of the Adjourned Annual Meeting of the Stockholders.

There were present and represented:

Jos. Ramsey, Jr., H. L. Magee, F. M. Hubbell, F. C. Hubbell, A. N. Denman, A. B. Cummins, H. D. Thompson, and C. Huttenlocher.

On motion duly seconded, Jos. Ramsey, Jr., was elected Chairman of the meeting, whereupon he stated the first business to be the election of the following officers, viz, President, Vice President, Secretary and Treasurer to hold their offices during the ensuing year and until their successors are duly elected and qualified.

It was moved that the following persons be elected, F. C. Hubbell President, A. B. Cummins, Vice President, F. M. Hubbell Secretary, and H. D. Thompson, Treasurer.

These nominations being submitted to a vote of the Directors all of the above named persons received the unanimous vote of all of the Directors and were declared elected as follows:

F. C. Hubbell, President. A. B. Cummins, Vice President.  
F. M. Hubbell, Secretary H. D. Thompson, Treasurer.

On motion of F. M. Hubbell duly seconded, F. C. Hubbell, Jos. Ramsey, Jr., and H. D. Thompson, were elected as members of the Executive Committee for the ensuing year.

The Secretary presented a contract dated May 9th, 1895, entered into between the Des Moines Union Railway Company

and the Des Moines Elevator Company, and Lamoine Mott, and asked that the same be ratified and approved.

On motion duly seconded, said contract was approved by the unanimous vote of the entire Board of Directors.

Whereupon, the Board of Directors adjourned, sine die.

F. M. HUBBELL, Secretary.

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**Defendants' Exhibit 145.**

**Des Moines Union Railway Company.**

Directors' Meeting, Des Moines, Iowa, July 21, 1897.

At a called meeting of the Board of Directors of the Des Moines Union Railway Company July 21st 1897 there were present F. C. Hubbell, F. M. Hubbell, A. N. Denman, J. Ramsey, Jr., H. L. Magee, H. D. Thompson, A. B. Cummins, and C. Huttenlocher.

The following Resolution was offered by Mr. Cummins, viz:

Resolved, that the President and Secretary be authorized and directed to sign such ratification of the contract between this Company, the Des Moines & St. Louis R. R. Co, the Des Moines & Northwestern Ry. Co, and the St. Louis, Des Moines & Northern Ry. Co., bearing date May 10th 1889, as may be necessary to make the said contract binding upon the Wabash R. R. Company so long as it operates the Des Moines & St. Louis R. R., and upon any successor of the last named Railroad Company and upon the Des Moines, Northern & Western R. R. Co, and any successor of said last named Company.

Upon being submitted to vote, the above Resolution was adopted by the unanimous vote of all the Directors.

The following Resolution was also adopted by the unanimous vote of all the Directors, viz:

Resolved, That the President of this Company shall cause to be prepared plans for a Passenger Depot to be located between Fifth and Sixth Streets, the cost of said structure not to exceed \$20,000.

Upon motion the Board adjourned sine die.

F. M. HUBBELL, Secretary.

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**Defendants' Exhibit 146.****Des Moines Union Railway Company.**

Directors' Meeting, November 10, 1897.

Special Meeting of Directors of the Des Moines Union Railway Company, held at the office of the Company in Des Moines, Iowa, November 10, 1897.

There were present: J. Ramsey, Jr., H. L. Magee, F. M. Hubbell, F. C. Hubbell, H. D. Thompson, C. Huttenlocher, A. B. Cummins, and A. N. Denman.

F. C. Hubbell, President, presiding.

A. B. Cummins offered the following resolution, to-wit:

Resolved, That this Company immediately proceed to construct a new passenger station in Des Moines, upon the following conditions:

If the City Council of Des Moines vacates Sixth Street from Cherry Street to the south line of the east and west alley which runs between Cherry and Vine Streets on the west side of Sixth Street and to a point twenty-two feet south of said alley on the east side of Sixth Street, and conveys said vacated portion of said street to this Company, then the cost of such passenger station, together with the necessary expenditure for a strip of land forty-four feet in width extending from Fifth to Sixth Street and immediately south of the said east and west alley, shall not exceed Sixty-five Thousand Dollars; and in the event that Sixth Street is so vacated the officers of the Company are authorized and directed to dedicate in the proper manner as a public street the south twenty-two feet of said forty-four foot strip.

162 If, however, within thirty days from this date the said City Council of Des Moines does not vacate the portion of Sixth Street as aforesaid, and convey said vacated portion to this Company, then the Company shall immediately proceed to construct a passenger station upon its property lying between Fifth and Sixth Streets at a cost not exceeding Fifteen Thousand Dollars.

The above resolution was adopted by the unanimous vote of all the Directors.

Whereupon the meeting adjourned.

F. M. HUBBELL, Secretary.

**Defendants' Exhibit 147.****Des Moines Union Railway Company.****Stockholders' Meeting. Jan. 6, 1898.**

Minutes of the Annual Meeting of the Stockholders of the Des Moines Union Railway Company held at the office of the Secretary of the Company, January 6, 1898.

There were present and represented:

D. M. N. & W. R. R. Co.	
By its President F. M. Hubbell, holding.....	998 Shares
F. M. Hubbell & Son, holding.....	2405 "
F. M. Hubbell, holding.....	2 "
F. C. Hubbell, holding.....	1 "
H. D. Thompson, holding.....	1 "
A. B. Cummins, holding.....	1 "
C. Huttenlocher, holding.....	1 "
Cyrus Kirk, holding.....	1 "
<u>Present by Proxy</u>	
Par. Com. Wab. St. L. & P. Ry. Co. by its proxy to F. M. Hubbell duly filed with the Secretary, holding.....	498 Shares
<hr/> Total.....	<hr/> 3998 Shares

being all of the stock of the Company, except two shares owned by Jos. Ramsey, Jr., and H. L. Magee.

On motion duly seconded F. C. Hubbell, was elected Chairman of the meeting and F. M. Hubbell Secretary.

Thereupon all of the minutes of the Stockholders' and Directors' meetings held during the year 1897 were called for.

Said minutes having been read, they were upon motion  
164 duly seconded, approved, and all of the acts and doings  
of the Executive Committee, Board of Directors, and  
Officers, done during the year 1897, were confirmed, ratified,  
and approved.

The chairman stated the next business in order to be the election of eight Directors for the ensuing year. All of the stock of the Company being represented save two shares, it was ordered that the Secretary cast the vote of the stockholders and stock for the following named persons as Directors for the ensuing year; viz: Jos. Ramsey, Jr., H. L. Magee, F. M. Hubbell, F. C. Hubbell, A. B. Cummins, C. Huttenlocher, H. D. Thompson, and Cyrus Kirk, which vote having been cast by the Secretary, viz: 3998 shares, for the above named persons, they were declared unanimously elected Directors of the Company for the ensuing year and until their successors are elected and qualified.

On motion duly seconded, the Stockholders' Meeting adjourned, sine die.

F. M. HUBBELL,  
Secretary.

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### **Defendants' Exhibit 148.**

#### **Des Moines Union Railway Company.**

##### **Directors' Meeting.**

Des Moines, Iowa, Janry. 29, 1898.

Minutes of the Adjourned Meeting of Directors of the Des Moines Union Railway Company, held January 29, 1898.

The Board of Directors of this Company convened at the office of the Secretary, on the day above named.

There were present and represented: F. M. Hubbell, F. C. Hubbell, A. B. Cummins, H. D. Thompson, C. Huttenlocher, and Cyrus Kirk, in person, and Jos. Ramsey, Jr., and H. L. Magee, by proxies to F. M. Hubbell duly filed with him as Secretary of the Company.

On motion duly seconded, A. B. Cummins was elected Chairman of the meeting, whereupon he stated the first business to be the election of the following officers viz: A President, Vice President, Secretary and Treasurer, to hold their offices during the ensuing year and until their successors are elected and qualified.

It was moved and seconded that the following named persons be elected to these respective offices, to-wit: F. C. Hubbell, President. F. M. Hubbell, Secretary. H. D. Thompson, Vice President and Treasurer.

These nominations being submitted to a vote of the Directors, all of the above named persons received the unanimous vote of the Directors and were declared elected as follows:

F. C. Hubbell, President  
F. M. Hubbell, Secretary  
H. D. Thompson, Vice Prest. & Treasurer.

166 On motion of F. M. Hubbell, duly seconded, F. C. Hubbell, Jos. Ramsey, Jr. and H. D. Thompson were elected members of the Executive Committee for the ensuing year.

The Superintendent, J. A. Wagner, laid before the meeting a statement of expenditures charged to "Permanent Improvements" which enter into the construction account for the period commencing January 1, 1894, and ending December 31,

1897, amounting to forty-seven thousand, two hundred twenty and 02/100 dollars (\$47,220.02) the details of which are as follows:

## STATEMENT.

Date '94		'97 Wabash R.R. D.M.N.&W.R.R.	Total
	Balance fwd from year 1893	\$ 49.76    \$ 469.35	\$ 519.11
(Omitted in December 1892)	Legal Expenses a/c "Sypher" Lot	21.70    24.80	46.50
January 1894	Filing Condemnation proceedings account "Jacks" Plat	1.62    1.63	3.25
March "	Building "Gatchell" side track	161.23    178.77	340.00
May "	Do Do	1.97    2.28	4.25
" "	Miscellaneous Legal Expenses	51.87    73.13	125.00
" "	Balance Payment "Jacks"	88.17    124.33	212.50
November "	Court Expenses "Luke O'Brien" case	12.70    12.70	25.40
December "	Expense a/c deed to 13th Street property	1.95    2.30	4.25
January 1895	Recording deed to 13th Street property	.39    .36	.75
April "	Transcript & Recording title to "Hart" Lot	3.32    3.63	6.95
June "	Purchase "Tuttle" property	564.05    635.95	1200.00

167	Date '94	'97 Wabash R.R. D.M.N.&W.R.R.	Total	
August	1893	Purchase "E. Whitworth" property, \$ 229.87	\$ 270.96	\$ 500.83
October	"	Purchase 18 ft. strip from C.H.I.&P.Ry. Co. 897.74	1102.36	2000.10
"	"	Purchase of Right of Way across D.M.&K.C.Ry. 180.72	221.90	402.62
November	"	Purchase "Harry West" property; strip 13 ft. wide off north side of Lot 3 Official Plat Lots 55 & 56 Brook's & Co.'s addn. and miscellaneous Court expenses 253.90	218.45	472.35
December	"	New side track to Union Stock Yards 777.24	1011.28	1788.52
January	1896	Condemning Lot 3 O.P. Lots 55 & 56 Brooks & Co.'s Adn. Whitworth property 11.87	16.13	28.00
February	"	Legal Exp. in case D.M. & K.C.&C.B.&Q. vs D.M. Union Ry. Co. 68.01	98.40	166.41
August	"	Legal Expense a/c "Harry West" property & Purchase, 2.91	5.19	8.10
"	"	Purchase of Lot 1 Bk 4 Original Town Fort Des Moines "Matilda K. Sypher" property 5750.00	5750.00	11,500.00
November	"	Purchase Lot 4 & E $\frac{1}{2}$ Lot 5 Bk 9, Hoxies Addn. 6075.00	6075.00	12,750.00
Aug.	"	Paving with brick between the 2 unloading tracks from 7th Str. to alley bet. 10 & 11 Sts. leased to Chicago Great Western Ry. Co. 1262.36	1262.36	2524.72
		New Chicago Great Western Freight House 6250.00	6250.00	12,500.00
Totals		\$23,018.45	\$24301.57	47320.02

168 Whereupon H. D. Thompson offered the following preamble and resolution which were unanimously adopted to-wit:

Whereas, the Des Moines Union Railway Company has expended for construction from January 1st, 1894, to December 31st, 1897, the sum of forty-seven thousand two hundred twenty and 02/100 Dollars (\$47,220.02) which sum includes the balance due on the settlement ordered to be made January 25,

1894, of which amount the Wabash R. R. Co. has contributed twenty-three thousand, eighteen and 45/100 dollars (\$23,018.45) and the Des Moines Northern & Western R. R. Co. has contributed twenty-four thousand two hundred and one and 57/100 (\$24,201.57)

Now, Therefore, Be It Resolved, that bonds of this Company be issued at par to said respective Companies in payment of the above described expenditures, and delivered as follows, to-wit:

23 Bonds to the Wabash R. R. Co.

24 Bonds to the Des Moines, Northern & Western R. R. Co.

Be It Further Resolved, that the President of this Company be authorized to comply with this order of the Board of Directors by delivering to the Wabash Railroad Company Bonds Nos. 499 to 521, both inclusive, making 23 bonds of One Thousand Dollars each, and to the Des Moines, Northern & Western Railroad Company Bonds Nos. 522 to 545, both inclusive, making 24 bonds of One Thousand Dollars each.

This leaves a balance of Eighteen and 45/100 dollars (18.45) due the Wabash Railroad Company and two hundred one and 57/100 dollars (\$201.57) due the Des Moines Northern & Western Railroad Company, to be hereafter adjusted.

Upon motion the Board of Directors adjourned sine die.

F. M. HUBBELL, Secretary.

Mr. Ramsey acknowledged receipt of Bonds Nos. 499 to 521 inc. by letter dated Apr. 2nd, 1898.

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### **Defendants' Exhibit 149.**

#### **Des Moines Union Railway Company.**

##### **Directors' Meeting.**

March 31st, 1898.

Minutes of the Adjourned Meeting of Directors of the Des Moines Union Railway Company, held March 31st, 1898, at the office of the Secretary of the Company.

There were present and represented: F. M. Hubbell, F. C. Hubbell, A. B. Cummins, H. D. Thompson, C. Huttenlocher, and Cyrus Kirk in person, and Directors Jos. Ramsey, Jr. and H. L. Magee, by written proxy to F. M. Hubbell, duly filed with him as Secretary of the Company.

Cyrus Kirk offered the following resolution, viz:

Resolved, that this Company purchase the north forty-four (44) feet of Lot three (3) and the north forty-four (44) feet of Lot six (6) in Block fifteen (15) of the Original Town of Fort Des Moines, Iowa, for the purpose of increasing the width of station grounds upon which the new Passenger Depot is to be erected, and to facilitate the closing of a portion of Sixth Street by opening a street thirty (30) feet wide running from Fifth Street to Sixth Street, along the south side of the property above described. The price to be paid therefor shall be twenty-five thousand dollars (\$25,000.00) in the First Mortgage Bonds of this Company; and that the President of this Company be authorized to use the twelve thousand dollars (\$12,000.00) of bonds now in the hands of the Treasurer of the Company, and to draw from the Trustee thirteen (13) more bonds for the purpose of completing payment of the purchase price of said ground. The bonds to be paid over  
171 upon delivery to this Company, of a warranty deed for the above described property, with a perfect title thereto.

Said resolution was adopted by the unanimous vote of all of the Directors.

F. M. HUBBELL,  
Secretary.

H. D. Thompson Treasurer, reports that on March 21st, 1898, he forwarded to the Wabash Railroad Company at St. Louis, Des Moines Union Railway Company bonds Nos. 299 to 321, both inclusive, 23 bonds via U. S. Express and on the same day delivered to the Des Moines, Northern & Western Railroad Company Des Moines Union Railway Company bonds Nos. 322 to 345, both inclusive, 24 bonds, in accordance with the resolution passed January 29, 1898.

F. M. HUBBELL,  
Secretary.

H. D. Thompson reports that he has delivered to F. M. Hubbell & Son twenty-five (25) Des Moines Union Railway Company bonds Nos. five hundred and forty-six to five hundred and fifty-seven (546 to 557) both inclusive and six hundred twenty-nine to six hundred forty-one (629 to 641) both inclusive in full payment for the north forty-four (44) feet of lot three (3) and the north forty-four (44) feet of lot six (6) in block fifteen (15) of the Original Town of Fort Des Moines, Iowa, in accordance with a resolution adopted by the Board of Directors on March 31st, 1898.

F. M. HUBBELL,  
Secy.

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**Defendants' Exhibit 150.****Des Moines Union Railway Company.**

Executive Committee, July 16, 1898.

It was ordered by the Executive Committee that the President be authorized to withdraw from the Central Trust Company, Trustee, thirty First Mortgage Bonds Nos. six hundred and forty-two (642) to six hundred seventy-one (671) both inclusive, and sell the same at the price of ninety-seven cents (97c) flat, for the purpose of raising money with which to commence the construction of the Union Passenger Station, and that he report his action in the matter.

F. M. HUBBELL,  
Secretary.

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**Defendants' Exhibit 151.****Des Moines Union Railway Company.**

Executive Committee Meeting.

July 26, 1898.

The President now reports that on the 26th day of July 1898 he withdrew from the Trustee Bonds Nos. Six hundred and forty-two (642) to Six hundred and Seventy-one (671) both inclusive as heretofore authorized, and that the best offer he received for the same is contained in a telegram received from J. Ramsey, Jr., of which the following is a copy:

"St. Louis, Mo. July 16th, 1898. F. M. Hubbell—We will take half of the thirty thousand at ninety-seven flat and if you wish to dispose of the entire amount at ninety-seven flat I think I can find a purchaser but will not pay more than that. J. Ramsey, Jr."

And he further reports that he sold said bonds at ninety-seven cents (97c) flat, viz: for Twenty-nine Thousand One Hundred Dollars (\$29,100.) and that he has paid said sum over to the Treasurer of this Company.

F. M. HUBBELL, Secretary.

**Defendants' Exhibit 152.****Des Moines Union Railway Company.****Directors' Meeting.**

February 14th, 1899.

Minutes of the Regular Meeting of the Directors of the Des Moines Union Railway Company, held February 14th, 1899.

The Board of Directors of this Company convened at the office of the Secretary on the day above named.

There were present and represented—F. M. Hubbell, A. B. Cummins, H. D. Thompson, C. Huttenlocher and Cyrus Kirk in person, and J. Ramsey, Jr., H. L. Magee and F. C. Hubbell by proxies to F. M. Hubbell, duly filed with him as Secretary of the Company.

H. D. Thompson Vice President, presiding.

Thereupon Cyrus Kirk offered the following resolution which was adopted by the unanimous vote of all the Directors to-wit:

Resolved, that for the purpose of enabling this Company to extend its side tracks for the accommodation of the new Passenger Station, this Company purchase a strip of ground fourteen (14) feet wide off from the north side of lots three (3) and six (6) in block nine (9) and a strip of ground fourteen (14) feet wide off from the north side of lot six (6) in block four (4), all in the Original Town of Fort Des Moines, Iowa, for the sum of sixty-three hundred dollars (\$6300).

Thereupon F. M. Hubbell offered the following resolution which was also adopted by the unanimous vote of all of the Directors, to-wit:

Resolved by the Board of Directors of the Des Moines Union Railway Company that the contract bearing date January 5th 1899 entered into by and between the Des Moines Union Railway Company and the Iowa Central Railway Company, which contract has been signed by their respective Presidents and Secretaries, with the seals of their respective Companies hereto attached, be and the same is hereby ratified, approved and in all respects confirmed on the part of the Des Moines Union Railway Company, and the Secretary of this Company is hereby authorized to attach to the said contract a certified copy of this resolution.

There being no other business before the meeting, the Directors adjourned sine die.

F. M. HUBBELL,  
Secretary.

**Defendants' Exhibit 153.**

**Des Moines Union Railway Company.**

Directors' Meeting, March 14, 1899.

Minutes of the Regular Meeting of Directors of the Des Moines Union Railway Company, held March 14th, 1899.

The Board of Directors of this Company convened at the office of the Secretary on the day above named.

There were present and represented,

F. M. Hubbell, A. B. Cummins, H. D. Thompson, C. Huttenlocher, and Cyrus Kirk in person, and J. Ramsey, Jr., H. L. Magee, and F. C. Hubbell by proxies to F. M. Hubbell, duly filed with him as Secretary of the Company.

H. D. Thompson, Vice President, presiding:

Thereupon A. B. Cummins offered the following resolution which was adopted by the unanimous vote of all the Directors, to-wit:

Resolved that the President and Secretary of the Company are hereby authorized to consent in writing to any assignment that has been made or that may be hereafter made by the Wabash Railroad Company or its interest in the contracts dated respectively May 10th 1889 between the Des Moines Union Railway Company and the Des Moines & St. Louis Railroad Company, the Des Moines & Northwestern Railway Company, and the St. Louis, Des Moines & Northern Railway Company, and the contract dated July 31st, 1897, between the Des Moines Union Railway Company, the Wabash Railroad Company and the Des Moines, Northern & Western Railroad Company and of its rights under the same, to the Continental

Trust Company of the City of New York, as provided  
178 for in the mortgage dated on or about January 1st 1899, made by the Wabash Railroad Company to the Continental Trust Company of the City of New York, and to consent for the Des Moines Union Railway Company to all assignments or conveyances that have been made or that may be hereafter made by the Wabash Purchasing Committee to the Wabash Railroad Company, or that have been made or may be hereafter made by the Wabash Railroad Company to the Continental Trust Company of the City of New York, of five hundred (500) shares of the capital stock of the Des Moines Union Railway Company, in accordance with the terms of said mortgage and in order to give effect to its provisions.

Thereupon the Board adjourned.

F. M. HUBBELL, Secretary.

**Defendants' Exhibit 154.****Des Moines Union Railway Company.**

Stockholders' Meeting, October 3, 1899.

Special Meeting of Stockholders, October 3, 1899, held at the office of the Company.

Minutes of the Special Meeting of Stockholders of the Des Moines Union Railway Company, October 3, 1899, pursuant to a notice of said Meeting served upon the Stockholders more than ten days previous to this date.

There were present and represented in person:

F. M. Hubbell, holding.....	1 Share
F. C. Hubbell, holding.....	1 Share
H. D. Thompson, holding.....	1 Share
H. L. Magee, holding.....	1 Share
Jos. Ramsey, Jr., holding.....	1 Share
F. M. Hubbell & Son, holding.....	2495 Shares
Cyrus Kirk, holding.....	1 Share
C. A. Goodnow, holding.....	1 Share
A. B. Cummins, holding.....	1 Share
A. J. Earling, holding.....	1 Share
Chicago, Milwaukee & St. Paul Railway Co. represented by A. J. Earling, President, holding.....	998 Shares
Continental Trust Company of New York represented by Jos. Ramsey, Jr. holding.....	498 Shares
Total.....	4000 Shares.

being all of the stock of this Company.

180 F. C. Hubbell, President, presented the resignations of C. Huttenlocher and H. L. Magee as Directors, whereupon, on motion, said resignations were accepted and C. A. Goodnow and A. J. Earling were nominated as Directors to fill the vacancies created by said resignations and upon the roll of Stockholders being called, it was found that all of the stock to-wit, four thousand (4000) shares, had been voted in favor of those persons as Directors, and said C. A. Goodnow and A. J. Earling were thereupon declared duly elected Directors of this Company.

Thereupon, all the minutes of the Stockholders' and Directors' meetings held during the years 1898 and 1899, up to this date, were called for. Said minutes having been read, they were, upon motion of A. J. Earling, duly seconded, approved, and all the acts and doings of the Executive Committee, Board of Directors, and Officers done during the year 1898 and up to October 1899, were confirmed, ratified, and approved.

On motion duly seconded, the Stockholders' Meeting adjourned sine die.

F. M. HUBBELL, Secretary.

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### **Defendants' Exhibit 155.**

#### **Des Moines Union Railway Company.**

Directors' Meeting, October 3, 1899.

Minutes of the Meeting of the Board of Directors of the Des Moines Union Railway Company, held at the office of the President of the Company in Des Moines, October 3, 1899.

F. C. Hubbell, President, presiding.

There were present, F. M. Hubbell, F. C. Hubbell, H. D. Thompson, A. B. Cummins, Cyrus Kirk, Jos. Ramsey, Jr., C. A. Goodnow and A. J. Earling.

H. D. Thompson resigned as a member of the Executive Committee and on motion of A. B. Cummins, C. A. Goodnow was elected a member of the Executive Committee.

Mr. Cummins moved that the contracts prepared by this Company and the C. B. & Q. Ry. Company, and the Keokuk & Western R. R. Company, be approved, and that the Officers of this Company be authorized to sign the same. No action taken.

F. M. Hubbell stated to the Directors that the Des Moines City Railway Company, in consideration of four hundred dollars (\$400) to be paid by this Company to the Des Moines City Railway Company, said last named Company would go to the expense of removing six feet in width of the side-walk on the north side of Cherry Street, between 5th and 6th Streets, move the curb six feet north and put it in place, lay its track upon said strip of ground from which the sidewalk was removed, and operate its loop in front of the Union Station, and that in the event this Company was not willing to contribute

182 the said four hundred dollars (\$400) toward the expense of said work, said City Railway Company would build its track along Cherry Street in the middle of the roadway. It was moved by Mr. Earling and carried that the above proposition be referred to the Executive Committee, with power to pay \$400 if they thought best.

The contract between this Company and the Des Moines City Railway Company for the crossing of this Company's tracks of Maury Street, was presented and approved.

Mr. Hubbell offered the following resolution which was adopted.

Whereas, it seems desirable to enter into a new terminal contract with the Wabash R. R. Company and the Chicago, Milwaukee & St. Paul Railway Company, if the terms thereof can be agreed upon, it is therefore,

Resolved that a committee consisting of A. J. Earling, Jos. Ramsey, Jr. and F. M. Hubbell, be appointed to consider the subject and report to this Board.

On motion duly seconded, the Board of Directors adjourned sine die.

F. M. HUBBELL,  
Secretary.

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### Defendants' Exhibit 156.

#### Des Moines Union Railway Company.

Stockholders' Meeting, Des Moines, Iowa, Jany. 4, 1900.

Minutes of the Annual Meeting of the Stockholders of the Des Moines Union Railway Company, held at the Office of the President on January 4th 1900.

There were present and represented:

F. M. Hubbell, holding.....	1 Share
F. C. Hubbell, holding.....	1 Share
H. D. Thompson, holding.....	1 Share
F. M. Hubbell & Son holding.....	2495 Shares.
Cyrus Kirk, holding.....	1 Share
A. B. Cummins, holding.....	1 Share
C. A. Goodnow, holding.....	1 Share
A. J. Earling, holding.....	1 Share
By proxy - Chicago, Milwaukee & St. Paul Railway Company, by A. J. Earling, President, holding.....	998 Shares.
" " - Continental Trust Company of New York, by F. M. Hubbell, holding.....	498 Shares
Total Stock represented.....	3098 Shares.

being all of the stock of the Company except two (2) shares owned by Jos. Ramsey, Jr. and H. L. Magee.

On motion duly seconded, F. C. Hubbell was elected Chairman of the meeting and F. M. Hubbell, Secretary.

Thereupon, all the minutes of the Stockholders and Directors meetings held since the first day of October 1899, were called for and read by the Secretary.

184 Thereupon, there was laid before the meeting and read by the Secretary, the report of J. A. Wagner, Superintendent, in words and figures as follows, to-wit:

### Statement.

Statement of Expenditures charged to "Permanent Improvements" which enter into the construction account for the period commencing January 1, 1898 and ending December 31, 1899, amounting to \$115,712.93, the details of which are as follows:

Paid purchase price of N. 44 ft. of lots 3 and 6 Blk 15 Ft. Des Moines to enlarge Passenger Station grounds.....	\$ 25,000.00
Paid total cost of Union Station.....	\$ 79,182.91
Paid for sidetracks as follows:	
For the Paragon Refining Company, S. 9th Street.....	222.22
For the Nichols & Shepard Co. E. 4th and Vine Sts.....	\$ 320.00
For Kingman Galbraith Implement Co. bet. W. 6th & 8th Sts.....	\$ 721.62
For Perkins & Perkins, bet. 10th and 11th Sts.....	\$ 385.53
For first sidetrack to D. M. Elevator Co., E. 18th and Market Sts.....	\$ 925.00
For second Do Do Do.....	\$ 918.51
For D. M. Poultry Co. and Longshore's Saw Mill S. 9th Str.....	\$ 502.18
For E. W. Crellin & Co. bet. 9th and 11th St.....	\$ 425.66
For Stoner Wall Paper Co., S. 9th Str.....	\$ 239.48
For Iowa Walnut Lumber Co. W. 12th Str.....	\$ 569.82
Paid for strip of ground 14 ft. wide off north side of lots 3 and 6, Blk. and off north side of lot 6 in Blk 4, Ft. Des Moines, including the right to lay tracks in the alley adjacent thereto.....	\$ 6,300.00
Total Disbursements.....	\$115,712.93

185 The above disbursements were provided for as follows:

Paid by issue and sale of First Mortgage bonds at par.....	\$ 55,000.00
Paid by appropriation of surplus earnings on hand January 1, 1898. \$	7,647.30
Paid by appropriation of net amount of surplus earnings for the year 1898.....	\$ 4,402.95
Paid by appropriation of surplus earnings for the year 1899.....	\$ 17,211.40
Total.....	\$ 84,261.65

The remainder of expenditures, to-wit, \$ 31,451.28 for "Permanent Improvements" is carried in the form of a floating debt.

NOTE. The surplus earnings for the year 1898, amounted to.....	\$ 10,825.92
There was disbursed from this amount, payment on the Heath notes.....	\$2000.00
Paid the C. G. W. amount of award in arbitration proceedings.....	\$4422.97 \$ 6,422.97
Leaving net amount of surplus earnings for 1898.....	\$ 4,402.95

J. A. WAGNER, Supt.

Thereupon, on motion of A. J. Earling, all of the acts and doings of the Executive Committee, Board of Directors, and Officers, as reported to this meeting of the Stockholders, were confirmed, ratified and approved by the affirmative vote of all of the stock represented, to-wit, 3998 shares.

The Chairman stated the next business in order to be the election of eight (8) Directors for the ensuing year. All of stock of the Company being represented, save two shares, it was ordered that the Secretary cast the vote of the stockholders and stock for the following named persons as 186 Directors for the ensuing year, viz: Jos. Ramsey, Jr.,

A. J. Earling, C. A. Goodnow, F. M. Hubbell, F. C. Hubbell, A. B. Cummins, H. D. Thompson, and Cyrus Kirk, which vote having been cast by the Secretary, to-wit, 3998 shares, for the above named persons, they were declared unanimously elected Directors of the Company for the ensuing year, and until their successors are elected and qualified.

On motion duly seconded the Stockholders Meeting adjourned sine die.

F. M. HUBBELL,  
Secretary.

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### **Defendants' Exhibit 157.**

#### **Des Moines Union Railway Company.**

Directors' Meeting, Des Moines, Jan'y 30th 1900.

Minutes of the Adjourned Meeting of the Board of Directors of the Des Moines Union Railway Company, held at the President's Office in Des Moines.

The Board met pursuant to adjournment.

F. C. Hubbell, President, presiding.

There were present: F. M. Hubbell, F. C. Hubbell, Cyrus Kirk, H. D. Thompson, and C. A. Goodnow, Director A. B. Cummins was represented by F. M. Hubbell, by virtue of a written proxy, and Director A. J. Earling was represented by C. A. Goodnow, by virtue of a written proxy, making seven (7) Directors represented. Director Jos. Ramsey, Jr., having been duly notified of the meeting was not present nor represented.

The President stated the object of the meeting was to consider a contract of lease between the Des Moines Union Railway Company and the Keokuk & Western Railroad Company; also a contract of lease between the Des Moines Union Railway Company and the Chicago, Burlington & Quincy Railroad

Company, for the use of certain portions of this Company's property.

Thereupon, the reading of the contracts was called for and said contracts having been read, F. M. Hubbell offered the following resolution, and moved its adoption, to-wit:

Resolved, that the contract of lease dated January 1st 1900 between this Company and the Keokuk & Western Railroad Company for the use of a portion of the Des Moines Union Railway Company's terminals therein described, now under  
188 consideration, a copy of which contract of lease is now presented to the Board of Directors, be and is hereby adopted and ratified, and the President and the Secretary of this Company are hereby authorized and directed to sign and execute said contract of lease, in duplicate, and attach this Company's seal thereto.

And be it further Resolved, that the contract of lease dated January 1st, 1900, between this Company and the Chicago, Burlington & Quincy Railroad Company for the use of a portion of the Des Moines Union Railway Company's terminals therein described, now under consideration, be and is hereby adopted and ratified, and the President and the Secretary of this Company are hereby authorized and directed to sign and execute said contract of lease, in duplicate, and attach this Company's seal thereto.

Said motion was seconded by H. D. Thompson and after a very lengthy discussion, was put upon its passage. The ayes and nays being called for, the Directors cast their votes as follows:

A. B. Cummins, Aye. A. J. Earling, No. C. A. Goodnow, No.  
F. M. Hubbell, Aye. F. C. Hubbell, Aye.  
H. D. Thompson, Aye. Cyrus Kirk, Aye.

Five Directors voting Aye, and two voting No.

Thereupon, the President declared the resolution carried.

On motion, duly seconded, the meeting of the Board of Directors adjourned.

F. M. HUBBELL,  
Secretary.

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**Defendants' Exhibit 158.**  
**Des Moines Union Railway Company.**

Directors' Meeting.

Des Moines, Iowa, June 12, 1900.

Copy of resolution and its adoption as follows:—

F. M. Hubbell offered the following resolution and moved its adoption, to-wit:

"Resolved, That the President be authorized to purchase for the Company the East twelve (12) feet of the West two-thirds ( $W. 2/3$ ) of lots seven (7) and eight (8) in block ten (10) of Hoxie's addition to Fort Des Moines, now included in and forming a part of the City of Des Moines, Iowa, at the price of Eight Hundred and Four Dollars (\$804.)"

Said motion was seconded by H. D. Thompson, and was put upon its passage. The Ayes and Nays being called for, the Directors cast their vote as follows:

A. B. Cummins, Aye; F. M. Hubbell, Aye; H. D. Thompson, Aye; F. C. Hubbell, Aye; Cyrus Kirk, Aye; A. J. Earling, Aye; C. H. Goodnow, Aye; J. Ramsey, Jr., Aye. Eight Directors voting, Aye.

Thereupon, The President declared the resolution carried by a unanimous vote.

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**Defendants' Exhibit 159.**  
**Des Moines Union Railway Company.**

Directors' Meeting.

Des Moines, Iowa, February 14, 1901.

Minutes of the adjourned meeting of the Board of Directors of the Des Moines Union Railway Company held at the office of the President in Des Moines, Iowa, February 14, 1901.

The Board met pursuant to adjournment, F. C. Hubbell, President, presiding:

There were present in person, A. J. Earling, C. A. Goodnow, F. M. Hubbell, F. C. Hubbell, and A. B. Cummins. Directors Cyrus Kirk and H. D. Thompson were represented by F. M. Hubbell by virtue of written proxies. Director Jos. Ramsey, Jr., was represented by E. B. Pryor, by virtue of a written proxy.

Mr. Earling moved that the Company lease lot eight (8) and the north fifteen (15) feet of lot seven (7) in block thirty-

five (35) Original Town of Fort Des Moines, including the buildings thereon, for the period ending May 1st, 1918, at the annual rate of five hundred and fifty dollars (\$550) to be paid monthly in advance, also, all taxes, special rates and assessments that may be levied thereon during the term of said lease, with the right, however, to the lessors, F. M. Hubbell, Son & Co., and their tenants, to use the south twenty-five (25) feet of said leased premises in common with the lessees for the purpose of access by teams to the factory now existing upon the south side of said lot seven (7), and that the President and Secretary be authorized to sign the necessary lease for said premises. Said motion having been seconded, 191 was carried by the unanimous vote of all the Directors.

Mr. Earling moved that the President be instructed to negotiate with Messrs. Schmidt & Henry for as early a vacation of the property on lots seven (7) and eight (8) block thirty-five (35) as possible. Said motion having been seconded was carried by the unanimous vote of all the Directors.

Mr. Earling also moved that the Company rent a switch engine from the Chicago Milwaukee & St. Paul Railway Company and the Wabash Railroad Company at eight dollars (\$8) per day of twenty-four hours, renting from the Wabash Company substantially one-third of the time and from the Chicago, Milwaukee & St. Paul Company two-thirds of the time, as it may be arranged by the said two companies. Said motion was seconded by F. M. Hubbell, and carried by the unanimous vote of all the Directors.

Resolved, that the President is authorized to purchase lots one (1) and two (2), seven (7) and eight (8), block nine (9); lots one (1) two (2) and the East one-half of lots seven (7) and eight (8) block fourteen (14), all in H. M. Hoxie's Addition to Fort Des Moines, Ia., at a price not exceeding thirty-six thousand dollars (\$36,000.00). Said resolution was adopted unanimously.

Resolved, that the President is authorized to purchase the west one-half of lots seven (7) and eight (8) block fourteen (14) of H. M. Hoxie's Addition, at forty-five hundred dollars (\$4500). Said resolution was adopted unanimously.

Resolved, that the President is authorized to pay one thousand dollars (\$1000) for the right of way across lot eleven (11) block "I" of Scott & Dean's Addition to Fort Des Moines, provided, the right can be obtained to lay a track in the alley between lots seven (7) and eight (8) block "I" and a release obtained from all the abutting property owners. Said resolution was adopted unanimously.

Resolved, that the President is authorized to arrange with the Chicago, Rock Island & Pacific Railway Company for the joint use of tracks at the Liverpool & Des Moines Packing Company plant. Said resolution was adopted unanimously.

On motion duly seconded, the Board of Directors adjourned until two o'clock p. m.

F. M. HUBBELL,  
Secretary.

The Directors met pursuant to adjournment, thereupon it was.

Resolved, that the President be and he is hereby directed to acquire by purchase the south-two-thirds (S. 2/3) of lot five (5) and the north one-third (N. 1/3) of lot six (6) all in block thirty-five (35) of the Original Town of Fort Des Moines, now a part of the City of Des Moines, Iowa, for the purpose of increasing our freight facilities, and if necessary he is authorized to institute the necessary proceedings to ascertain by condemnation the damage that the owner of the property will sustain by reason of its being taken for railroad purposes.

F. M. HUBBELL, Secretary.

### **Defendants' Exhibit 160.**

#### **Des Moines Union Railway Company.**

##### **Directors' Meeting.**

Des Moines, Iowa, March 31, 1902.

Minutes of the Adjourned Meeting of Board of Directors of the Des Moines Union Railway Company, held at the Office of the President in Des Moines, Iowa, March 31st, 1902.

The Board met pursuant to adjournment.

F. C. Hubbell, President presiding: There were present in person, F. M. Hubbell, F. C. Hubbell, Cyrus Kirk, and H. D. Thompson. Directors Jos. Ramsey, Jr., A. J. Earling and C. A. Goodnow were represented by F. C. Hubbell, by written proxy dated March 17, 1902.

On motion It was Resolved that the President be and he is hereby authorized to institute the necessary proceedings to ascertain by condemnation the damages sustained by the Getchell & Martin Manufacturing Company by reason of the occupation by this Company with its tracks of the alley on the north side of lot three (3) in block four (4) of the Original Town of Fort Des Moines, and lot two (2) in block nine (9) of H. M. Hoxie's Addition to Fort Des Moines, Iowa.

The above Resolution was adopted by the unanimous vote of all the Directors.

On motion the meeting adjourned.

F. M. HUBBELL, Secretary.

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### Defendants' Exhibit 161.

#### Des Moines Union Railway Company.

##### Stockholders' Meeting.

Des Moines, Iowa, August 22, 1902.

Special Meeting of the Stockholders of the Des Moines Union Railway Company held at the office of the Secretary on August 22nd, 1902.

##### Present in person:

F. M. Hubbell, holding.....	1 share
B. D. Thompson, holding.....	1 share
Cyrus Kirk, holding.....	1 share
C. Huttenlocher, holding.....	1 share
F. M. Hubbell & Son, holding.....	200 shares

##### Present by proxy duly filed with the Secretary.

F. C. Hubbell, by his proxy, F. M. Hubbell, holding.....	1 share
A. J. Earling, by his proxy, F. Horton, holding.....	1 share
H. R. Williams, by his proxy, F. Horton, holding.....	1 share
Chicago, Milwaukee & St. Paul Railway Company by its proxy, F. Horton, holding.....	900 shares
J. Ramsey, Jr., by his proxy, F. M. Hubbell, holding.....	1 share
H. L. Magee, by his proxy F. M. Hubbell, holding.....	1 share
Continental Trust Company of the City of New York, Trustee, by its proxy, F. M. Hubbell, holding.....	600 Shares

Total stock represented..... 1600 Shares

being all of the stock of the Company.

On motion duly seconded, F. Horton was elected Chairman of the meeting and F. M. Hubbell, Secretary.

195 Thereupon, it was stated to the stockholders that the Hon. A. R. Cummins and Mr. C. A. Goodnow had resigned their offices as directors of this Company, thus leaving two vacancies in the Board.

It was thereupon ordered that the secretary cast the vote of the stockholders and stock in favor of H. R. Williams and C. Huttenlocher as directors to fill said two vacancies, which vote having been cast by the Secretary, to-wit; four thousand (4000)

shares of stock, for the above named persons, they were declared unanimously elected directors of the Company for the ensuing year and until their successors are elected and qualified. On motion duly seconded, the Stockholders' meeting adjourned sine die.

F. M. HUBBELL, *Secretary.*

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### **Defendants' Exhibit 162.**

#### **Des Moines Union Railway Company.**

(Friday) Directors' Meeting. September 26, 1902.

Minutes of the Adjourned Meeting of the Board of Directors of the Des Moines Union Railway Company, held at the office of the Vice President, in Des Moines, September 26, 1902.

The Board met pursuant to adjournment.

Present in person: F. M. Hubbell, Cyrus Kirk, H. D. Thompson, C. Huttenlocher, Director Jos. Ramsey, Jr., was represented by J. A. Wagner, by a written proxy dated August 27, 1902. Directors A. J. Earling and H. R. Williams were represented by written proxies to F. Horton, dated September 24, 1902. Director F. C. Hubbell was represented by written proxy to F. M. Hubbell dated July 1, 1902, all of the Directors being present or represented.

H. D. Thompson, Vice President, presiding.

The Vice President stated the object of the meeting was to consider a contract between this Company and the Chicago, Burlington & Quincy Railroad Company dated September 2d 1901 for passenger facilities, also a contract between this Company and the Des Moines, Iowa Falls & Northern Railway Company for passenger facilities. Whereupon, C. Huttenlocher offered the following resolution and moved its adoption, viz:

"Resolved that the contract of lease dated September 2d 1901 between this Company and the Chicago, Burlington & Quincy Railroad Company for the use of a portion of the Des Moines Union Railway Company's terminals therein described, now under consideration,—a copy of which contract of  
197 lease is now presented to the Board of Directors—Be and the same is hereby ratified and approved, and the President and Secretary of this Company are hereby authorized and directed to sign and execute said contract of lease in duplicate, and attach this Company's seal thereto."

Said motion was seconded by A. J. Earling, by his attorney, F. H. Horton, whereupon the Ayes and Nays were demanded.

H. J. Earling voted Aye.      H. R. Williams voted Aye.  
 Jos. Ramsey, Jr. voted Aye.      F. C. Hubbell voted Aye.  
 F. M. Hubbell voted Aye.      H. D. Thompson voted Aye.  
 C. Huttenlocher voted Aye.      Cyrus Kirk voted Aye.

All of the Directors having voted in favor of the adoption of the resolution the Vice President declared the same to be adopted.

F. Horton, Attorney for H. R. Williams, offered the following resolution and moved its adoption, viz:

"Be it further Resolved, that the contract of lease dated July 22, 1902, between the Des Moines Union Railway Company and the Des Moines Iowa Falls & Northern Railway Company for the use of a portion of the Des Moines Union Railway Company's terminals therein described, now under consideration, a copy of which contract of lease is now presented to the Board of Directors—he and the same is hereby ratified and approved, and the President and Secretary of this Company are hereby authorized and directed to sign and execute said contract of lease, in duplicate, and attach this Company's seal thereto."

Said motion was seconded by Jos. Ramsey, Jr. by his attorney, J. A. Wagner, whereupon the Ayes and Nays were demanded.

198 A. J. Earling voted Aye.      H. R. Williams voted Aye.  
 Jos. Ramsey, Jr., voted Aye.      F. C. Hubbell voted Aye.  
 F. M. Hubbell voted Aye.      H. D. Thompson voted Aye.  
 C. Huttenlocher voted Aye.      Cyrus Kirk voted Aye.

All of the Directors having voted in favor of the adoption of the resolution, the Vice President declared the same to be adopted.

There being no other business before the meeting the Board adjourned *sine die*.

F. M. HUBBELL,  
 Secretary.

**Defendants' Exhibit 162a.**

Know All Men by These Presents: That we, A. J. Earling, H. R. Williams, and Jos. Ramsey, Jr., directors of the Des Moines Union Railway Company do hereby constitute and appoint J. A. Wagner of Des Moines, Iowa, our lawful agent and attorney for us and in our names to appear at a meeting of the board of directors of said Company to be held at the office of the Company in Des Moines, Iowa, between the hours of 10 o'clock A. M. and 4 o'clock P. M. on the 17th day of March, 1903, for the purpose of voting on the passage of the annexed resolution authorizing the exchange of real estate between this Company and the Des Moines Western Railway Company and the execution of a warranty deed to the Des Moines Western Railway Company to carry out the terms of said resolution, and for the transaction of no other business coming before said meeting, and then and there for us and in our names to cast the vote to which each of us are entitled and which we might cast if present.

Witness our hands this 7th day of January, 1903.

A. J. EARLING  
H. R. WILLIAMS  
J. RAMSEY, JR.

**Defendants' Exhibit 163.****Des Moines Union Railway Company.****Directors' Meeting.**

Des Moines, Iowa, Mar. 17, 1903.

Minutes of the Adjourned Meeting of the Board of Directors of the Des Moines Union Railway Company, held at the Secretary's office in Des Moines, Iowa, on March 17th, 1903.

The Board met pursuant to adjournment.

Present in person, F. C. Hubbell, H. D. Thompson, Cyrus Kirk and C. Huttenlocher, Directors A. J. Earling, H. R. Williams and Jos. Ramsey, Jr., were represented by proxy to J. A. Wagner, duly filed with the Secretary. Director F. M. Hubbell was represented by his proxy, F. C. Hubbell.

President F. C. Hubbell in the chair:

H. D. Thompson offered the following Resolution and moved its adoption:

"Whereas, the Des Moines Western Railway Company is the owner of certain lots and parts of lots in the City of Des

Moines, described as follows: viz—The south seventeen (17) feet of lots seven (7) and sixteen (16) in block fourteen (14); All that part of lot seven (7) in block thirteen (13) which lies within 50 feet of the center line of the north main track of the Des Moines Union Railway Company as now located and constructed; all that part of lot fifteen (15) in block twelve (12) which lies within 50 feet of the center line of the north main track of the Des Moines Union Railway Company as now located and constructed; all of lot twelve (12) in block twelve (12) and all of lot eleven (11) of the Official Plat of lots one (1) two (2) nine (9) and ten (10) in block twenty (20) all in the Town of Des Moines to which lots and  
201 parts of lots this Company desires to acquire the title, and

Whereas, the Des Moines Union Railway Company is the owner of sundry fractional parts of lots described as follows: the north thirty-nine (39) feet of lot sixteen (16) in block thirteen; all that part of lots nine (9) ten (10) and fourteen (14) in block twelve (12) north of and 50 feet distant from the center line of the north main track of the Des Moines Union Railway Company as now constructed; all of lots twelve (12) and thirteen (13) in block eleven (11) except the following described triangle: Beginning at the southwest corner of lot twelve (12) in block eleven (11); thence north along the west line of said lots twelve (12) and thirteen (13) 62 feet; thence southeasterly across lots thirteen (13) and twelve (12) to a point on the south line of lot twelve (12) 116.5 feet east of the southwest corner of said lot twelve (12); thence west to place of beginning. Also the following described triangle off from the northeast corner of lot ten (10), block twenty-one (21)—Beginning at the northeast corner of said lot ten (10); thence westerly along the north line of said lot, 31.8 feet, thence southeasterly to a point on the east line of said lot, 17 feet south of the northeast corner thereof; thence northerly to the point of beginning. Also, all of lot two (2) in block twenty-two (22) except the following described triangle—Beginning at the southwest corner of said lot two (2); thence northerly along the west line of said lot 52 feet; thence southeasterly to a point on the south line of said lot which is 98.5 feet east of the southwest corner; thence westerly to point of beginning. Also the following described triangle off from the northeast corner of lot eleven (11) of the Official Plat of lots three (3)  
202 four (4) five (5) six (6) seven (7) and eight (8) block twenty-two (22) viz: Beginning at the northeast cor-

ner of said lot eleven (11); thence westerly along the north line of said lot, 167 feet; thence southeasterly to a point on the east line of said lot 85.5 feet south of the northeast corner of said lot; thence northerly to point of beginning. All of lots three (3) four (4) five (5) six (6) and seven (7), block twenty-three (23), included in the strip of land 50 feet in width parallel to and the south line being  $7\frac{1}{2}$  feet distant northerly from the center line of the north main track of the Des Moines Union Railway Company as now located and constructed—all of the foregoing being in the Town of Des Moines. Also, all of lot eleven (11) except the following described triangle—beginning at the southeast corner of said lot eleven (11); thence north along the east line of said lot, 2.7 feet; thence southwesterly 88.5 feet to the south line of said lot; thence easterly 88.4 feet to the point of beginning. Also, the following described part of lot ten (10);—Beginning at the northwest corner of said lot ten (10); thence south along the west line of said lot, 45.7 feet; thence northeasterly to a point on the east line of said lot, 16 feet north of the southeast corner thereof; thence north 34 feet to the northeast corner thereof; thence west to the point of beginning. Said last two described tracts of land being in D. Reese's Sub-Division of lot thirty (30) of Brooks & Co's Addition to the City of Des Moines, which this Company desires to convey to the Des Moines Western Railway Company in even exchange for the lots and fractional parts of lots first described, as being owned by the Des Moines Western Railway Company, and

Whereas, said fractional parts of lots owned by this Company are of about equal value to the lots and fractional parts of lots above described, owned by the Des Moines Western Railway Company,

Now Therefore, Be it Resolved, that the President and the Secretary of this Company are hereby authorized and directed to make said exchange of real estate and execute and deliver to the Des Moines Western Railway Company a warranty deed for said fractional parts of lots herein described, belonging to this Company, upon receiving from the Des Moines Western Railway Company a warranty deed for the lots and fractions of lots herein described, belonging to said Des Moines Western Railway Company."

J. A. Wagner as attorney for A. J. Earling seconded the motion to adopt the foregoing resolution which received the unanimous affirmative vote of all the Directors, as follows:

F. C. Hubbell voted Aye; F. M. Hubbel, by F. C. Hubbell, voted Aye; A. J. Earling, H. R. Williams and Jos. Ramsey,

Jr. by J. A. Wagner, voted Aye; H. D. Thompson voted Aye; Cyrus Kirk voted Aye; C. Huttenlocher voted Aye.

There being no further business before the Board, the meeting adjourned.

F. M. HUBBELL,  
Secretary.

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### Defendants' Exhibit 164.

#### Des Moines Union Railway Company.

Stockholders' Meeting, Des Moines, Ia. January 5th, 1906.  
(Friday)

The Stockholders met at the office of the President, pursuant to adjournment.

There were present and represented the following stockholders:

F. M. Hubbell, holding.....	1 Share
F. C. Hubbell, ".....	1 "
H. D. Thompson, by his proxy, F. M. Hubbell, holding.....	1 "
F. M. Hubbell & Son, holding.....	2495 Shares
Chicago, Milwaukee & St. Paul Railway Company, holding.....	998 "
C. Huttenlocher, holding.....	1 "
G. C. Hubbell, ".....	1 "
E. W. McKenna, ".....	1 "
W. J. Underwood, ".....	1 "
F. A. Delano ".....	1 "
E. B. Pryor, ".....	1 "
* Total.....	3502 Shares

It was moved and seconded that the Secretary be authorized to cast the vote of all of the shares of stock present for the following directors, viz:

F. M. Hubbell to succeed himself.

F. C. Hubbell to succeed himself

C. Huttenlocher to succeed himself

205 G. C. Hubbell to succeed Cyrus Kirk

E. W. McKenna to succeed A. J. Earling

W. J. Underwood to succeed H. R. Williams

E. B. Pryor to succeed Jos. Ramsey, Jr., leaving

H. D. Thompson to hold his office as director without re-election.

Thereupon, the Secretary cast the vote of the stock which was present and represented, to-wit—thirty-five hundred and two (3502) shares for the following named directors, viz: F. M. Hubbell, F. C. Hubbell, C. Huttenlocher, G. C. Hubbell, E. W. McKenna, W. J. Underwood, and E. B. Pryor, and those persons were declared elected as directors of this Company for the ensuing year and until their successors are elected and qualified.

Thereupon, the Secretary read the reports of J. A. Wagner Superintendent, for the years 1900, 1901, 1902, 1903, 1904, and 1905, as follows:

#### Report for 1900

(showing \$9564.11 charged to "Permanent Improvements" in Constr. Acct.

The Superintendent, J. A. Wagner, laid before the meeting a statement of expenditures charged to "Permanent Improvements" which enter into the "Construction" Account for the year ending December 31, 1900 amounting to \$9564.11; the details of which are as follows;

	Paid for east twelve (12) feet of west two-thirds (W. 2/3) of lots seven (7) and eight (8) in block ten (10) Hoxie's Addn. to the City of Des Moines, Iowa, for sidetrack purposes to "Luthe Hardware Co" Bldg. at Ninth and Cherry Sts. . . . .	\$ 804.00
206	Paid for lots one (1) two (2) three (3) four (4) five (5) six (6) seven (7) eight (8) nine (9) and ten (10) of Capital Addition to the City of Des Moines. . . . .	\$ 326.55
	Paid for sidetrack to "Luthe Hdw. Co." Bldg., at 9th & Cherry Sts. . . . .	\$ 324.07
	Paid cost of erecting so called "Cudahy" Bldg. bet. 6th & 7th Sts. on Cherry Street. . . . .	\$ 5498.86
	Paid cost of erecting new D. M. Union "coal chute" . . . . .	\$ 2610.63

Total disbursements for the year 1900. . . . . \$ 9564.11

The above disbursements were provided for as follows:

Total amount of "surplus earnings" year 1900. . . . .	\$21333.60
Less amount disbursed account of improvements during yr. 1900 as per statement above. . . . .	9564.11
Leaving net amount of "Surplus Earnings", year 1900. . . . .	\$11769.49
The balance to debit of "Surplus Earnings" on Janry. 1, 1900 amounted to. . . . .	\$31451.28
Paid by appropriation of net amount of "Surplus Earnings" for year 1900. . . . .	\$11769.49
Amount applied from "Rental Suspense" account, December 31st 1900. . . . .	\$ 3782.30
	\$15551.79

Leaving a debit balance of. . . . . \$15809  
which is carried forward to January 1st 1901 in form of a floating debt.

J. A. WAGNER.

## Report for 1901.

(Showing \$3649.28 charged to "Permanent Improvement" in Construction Acct.)

The Superintendent J. A. Wagner, laid before the meeting a statement of expenditures charged to "Permanent Improvements" which enter into the "Construction" account for the year ending December 31st 1901, amounting to \$3649.28, the details of which are as follows:

Paid for sidetrack to Globe Machinery & Supply Co. and Hawkeye Transfer Co. buildings from connection at the Paragon Refining Co. track to south line of Elm Street bet. Seventh & Eighth Sts. West Des Moines.....	\$ 2153.73
Paid for sidetrack to Des Moines Clay Manufacturing Company's building, located on South Seventh Street.....	\$ 479.17
Paid for sidetrack to Schmidt & Henry Manufacturing Company's building, located on Seventh and Elm Streets....	\$ 430.80
Paid for sidetrack located in alley south of Warfield, Pratt Howell & Co. building, bet. First & Second Sts. W. Des Moines.....	\$ 546.58
Paid for serving notice of condemnation of Tyrrell property, S. 2/3 of lot five (5) and N. 1/3 of lot six (6) block thirty-five (35) Town of Des Moines (new Freight Hs. property). \$	5 00
Paid J. W. Henry for abstract #11696, lot three (3) block four (4) Fort Des Moines, Also lots two (2) and seven (7) block nine (9) and lot two (2) and E. 1/2 of lot seven (7) block fourteen (14) H. M. Hoxie's Addn. and abstract #11698 lot six (6) and S. 2/3 of lot five (5) block thirty-five (35) Fort Des Moines, (New Freight Hs. property).....	\$ 34.00

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\$ 3649.28

The above disbursements were provided for as follows:

Total amount "Surplus Earnings", year 1901.....	\$25643.10
less amount disbursed account of improvements during the year 1901 as per statement above.....	3649.28
Leaving net amount of "Surplus Earnings" year 1901.....	\$21993.82

The balance to debit of "Surplus Earnings" on January 1st 1901 amounted to.....

\$15890.40

Adjustment of "Materials and Supplies" account December 31st 1901.....

\$ 208.68

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\$16108.17

Paid by appropriation of net amount of "Surplus Earnings" for year 1901.....

\$21993.82

Amount applied from "Suspense Acct." December 31, 1901.....

\$ 4.15 21997.97

Balance to credit of "Surplus Earnings, December 31," 1901....

\$ 5889.80

J. A. WAGNER.

## Report for 1902.

The Superintendent, J. A. Wagner, laid before the meeting a statement of Expenditures charged to "Permanent Improvement" which enter into the Construction Account for the year ending December 31, 1902 amounting to \$28462.77 the details of which are as follows:

Amount refunded Wabash and C. M. & St. P. a/c Old "Permanent Improvement" Account.....	\$ 173.52
Paid C. R. I. & P. Ry. Co. for sidetrack in "A" Street in East Des Moines.....	\$ 301.51
Paid F. M. Hubbell for right of way over N. 32 feet of Lot 2, Block 18 Hoxie's Addition (a/c Getchell & Martin settlement).....	\$ 3000.00
Paid miscellaneous expenses in Getchell and Martin Lumber & M'fg Co. condemnation proceedings.....	\$ 191.90
Paid F. M. Hubbell for part lots 5 and 6, block 42, J. Lyon's Addition for side track purposes.....	\$ 1000.00
Paid Keokuk & Western R. R. Co. for one dirt unloader.....	\$ 265.00
Paid Baldwin Locomotive Works for one switch engine known as #4.....	\$ 9607.00
Paid the Pond Machine Tool Co. for one Planer.....	\$ 1598.80
Paid for constructing sidetrack to Continental Biscuit Company, Building located on West Tenth Street.....	\$ 812.25
Paid for constructing sidetrack to "The Brown Hurley Hardware Co." building located on First Street.....	\$ 1118.00
Paid for constructing C. B. & Q. connection in October 1902....	\$ 5324.79
Paid Equitable Life Insurance Co. of Iowa note for \$5000 dated July 18, 1902, to apply on purchase price of Getchell & Martin Lumber & M'fg Co. property, viz: N. 38 feet lots 2 and 7 Block 9 N. 38 feet lots 2 and 7 Block 14 all in H. M. Hoxie's Addition.....	\$ 5000.00
	<hr/>
	\$28482.77

The above disbursements were provided for as follows:

Total amount of "Surplus Earnings" for 1902.....	\$29922.67
Less amount disbursed account of improvements, during year 1902 as per statement above.....	\$28482.77
	<hr/>
Leaving net amount of "Surplus Earnings" year 1902.....	\$ 1439.90
The balance to credit of "Surplus Earnings" on January 1, 1902 amounted to.....	\$ 5889.80
Adjustment of "Suspense Account".....	\$ 10.99
"Surplus Earnings" for year 1902.....	\$29922.67
	<hr/>
Paid by appropriation of "Surplus Earnings" for year 1902.....	\$28482.77
Adjustment of "Material & Supplies" account for year 1902.....	\$ 476.59
	<hr/>
Balance to credit of "Surplus Earnings" January 1st 1903.....	\$ 6864.10

J. A. WAGNER.

## Report for 1903.

The Superintendent J. A. Wagner, laid before the meeting a statement of expenditures charged to "Permanent Improvements" which enter into the "Construction" account for the year ending December 31, 1903, amounting to \$20,264.70: the details of which are as follows:

Paid Burnham Williams & Co. for one switch engine .....	\$ 9689 63
Paid amount to apply on note for \$8250 given in purchase of Daniel Tyrell property, viz: S 2/3 lot 5 and N 1/3 lot 6, block 35, Town of Fort Des Moines .....	\$ 2250.00
Paid Niles Bement Co. for one Nut Tapper .....	418.00
Paid Hill, Clarke & Co. for one pipe machine .....	383.00
Paid freight charges on above two machines .....	61.12
Paid Light Inspection Car Co., for one motor car .....	250.00
Paid for completing west end of "Union Passenger Station" .....	2399.90
Paid for N - 11 ft. of following property: Lots 7, 8, 9, 10, and 11, block 39, J. Lyon's Add. and Lot 4 of O. P. Of Keen & Poindexter's Addition .....	1000.00
Paid for lot 2 of the O. P. of lot 20 Brooks & Co.'s Add. ....	500 00
Paid B. F. Parker & Co. for building located on lot 7, Block 16 Town of Des Moines, now a part of the City of Des Moines. ....	150 00
Paid for constructing sidetracks to J. I. Case Threshing Machine Company's building .....	2335.30
Paid for constructing sidetrack north of Mulberry Street .....	827.75
	<hr/>
	\$20264.70

## 212 The above disbursements were provided for as follows:

Total amount of "Surplus Earnings" year 1903 .....	\$35570 78
Less amount disbursed account of improvements during year 1903 as per statement above .....	\$20264.70

Leaving net amount of "Surplus Earnings" year 1903 .....	\$15306.08
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The balance to credit of "Surplus Earnings" on January 1, 1903 amounted to .....	\$ 6864.10
Total amount of "Surplus Earnings" for year 1903 .....	\$35570.78

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\$42434.88

Paid by appropriation of Surplus Earnings for year 1903 .....	\$20264.70
Adjustment of Material & Supplies account for year 1903 .....	\$ 270.16
	<hr/>
	\$20534.86

Balance to credit of "Surplus Earnings" January 1st 1904 .....	\$21900.02
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J. A. WAGNER.

## Report for 1904.

The Superintendent, J. A. Wagner, laid before the meeting a statement of expenditures charged to "Permanent Improvements" which enter into the "Construction" account for the year ending December 31, 1904, amounting to \$36,623.67; the details of which are as follows:

Paid for erecting new "Freight House" West Second Street....	\$ 4483.34
Paid miscellaneous Court Costs in case of "Getchell & Martin Lumber & M'fg Co. vs Des Moines Union Ry. Co.".....	\$ 280.33
Paid for the Minneapolis & St. Louis R. R. connection in West Des Moines.....	\$ 596.00
Paid balance of "Heath" note.....	\$20000.00
Paid balance on note for \$250 given in purchase of Daniel Tyrrell property, viz: S. 2/3 lot 5 and N. 1/3 lot 6, block 35 Town of Fort Des Moines.....	\$ 6000.00
Paid Equitable Life Insurance Co. of Iowa note for \$5264.00 dated July 18, 1902 to apply on purchase price of Getchell & Martin Lumber & M'fg Co. property viz: N. 38 ft. lots 2 & 7 Block 9 } all in H. M. N. 38 ft. " 2 & 7 " 14 }	\$ 5364.00
Hoxie's Addition.....	\$36623.63

The above disbursements were provided for as follows:

Total amount of "Surplus Earnings" year 1904.....	\$46732.94
Less amount disbursed account of improvements, etc. during year 1904, as per statement above.....	\$36623.67

Leaving net amount "Surplus Earnings," year 1904.....\$10129.27

214 The balance to credit of "Surplus Earnings" on January 1, 1904 amounted to.....	\$21900.02
Total amount Surplus Earnings" for year 1904.....	\$46732.94
	\$28652.96
Paid by appropriation of "Surplus Earnings" for year 1904.....	\$36623.67
Balance to credit of "Surplus Earnings" January 1st 1905.....	\$32029.29

J. A. WAGNER.

## Report for 1905.

The Superintendent J. A. Wagner, laid before the meeting a statement of expenditures charged to "Permanent Improvements" which enter into the "Construction" account for the year ending December 31st 1905, amounting to \$10,000.00 the details of which are as follows:

Paid Equitable Life Insurance Company of Iowa, note for \$10000.00 dated July 18th 1902, balance on purchase price of Getchell & Martin Lumber & Mfg. Company property viz:

N. 38 ft. lots 2 and 7 block 9 }	
N. 38 ft. " 2 and 7 " 14 }	
all in H. M. Hoxie's Addition.....	\$10000.00

The above disbursements were provided for as follows:

Total amount "Surplus Earnings" year 1905.....	\$54763.68
Less amount disbursed account of improvements etc. during year 1905, as per statement above.....	\$10000.00
Leaving net amount of "Surplus Earnings" year 1905.....	\$44763.68

The balance to credit of "Surplus Earnings" on January 1st 1905 amounted to.....	\$32029.29
Total amount of "Surplus Earnings" for year 1905.....	\$54763.68
	\$86792.97

Paid by appropriation of "Surplus Earnings" for year 1905. \$10000.00

Balance to credit of "Surplus Earnings" January 1st 1906. \$76792.97

Yours truly,

J. A. WAGNER.

216 A resolution authorizing the issue of one million six hundred thousand dollars (\$1,600,000) of the capital stock representing the value of this Company's property, over and above all its liabilities, was submitted to the meeting, and after considerable discussion action upon it was postponed until the adjourned meeting of the stockholders to be held January 18th 1906.

Whereupon the stockholders meeting adjourned to meet at the office of the President January 18th 1906, at ten o'clock A. M.

F. M. HUBBELL,  
Secretary.

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### Defendants' Exhibit 165.

#### Des Moines Union Railway Company.

Directors Meeting, Des Moines, Iowa, Janry. 5, 1906.

The Board of Directors met immediately after adjournment of the Stockholders meeting.

There were present: F. M. Hubbell, F. C. Hubbell, C. Huttenlocher, G. C. Hubbell, E. W. McKenna, W. J. Underwood, E. B. Pryor, and H. D. Thompson, by his proxy, F. M. Hubbell.

The President stated the first business to come before the meeting was the election of officers for the ensuing year.

F. M. Hubbell put in nomination

F. C. Hubbell for President

H. D. Thompson for Vice President & Treasurer

F. M. Hubbell for Secretary.

There being no other nominations the above named persons received the affirmative vote of all of the Directors present and represented, and were declared unanimously elected as officers of this Company for the ensuing year, and until their successors are elected and qualified.

A proposition to extend this Company's tracks to the Army Post was taken up and discussed, but no action taken.

Mr. McKenna moved that the President of this Company be authorized to subscribe and pay for sixty (60) shares at one hundred dollars per share (\$100) of the stock of the Iowa Transfer Railway Company. Seconded by F. M. Hubbell and carried by the unanimous vote of the eight (8) directors present and represented.

218 Mr. Pryor moved that the President and Secretary be authorized to sign a lease with the Iowa Transfer Railway Company, dated January 4th, 1906, and attach this Company's seal to same, which upon being put to vote, carried unanimously.

It was then moved and seconded that the Board of Directors adjourn until January 18th 1906.

F. M. HUBBELL,  
Secretary.

219

### **Defendants' Exhibit 166.**

#### **Des Moines Union Railway Company.**

Directors' Meeting, Des Moines, Iowa, Decr. 13, 1906.

Minutes of the Adjourned Meeting of the Board of Directors of the Des Moines Union Railway Company, held at the office of the Secretary in Des Moines, December 13th 1906.

There were present, F. C. Hubbell, President, presiding. F. M. Hubbell, H. D. Thompson, C. Huttenlocher and G. C. Hubbell in person, and Directors E. W. McKenna and W. J. Underwood by their attorney in fact, J. T. Gillick, and Director E. R. Pryor by his attorney in fact, F. C. Hubbell.

The following preamble and resolution was offered by H. D. Thompson and seconded by J. T. Gillick as attorney in fact for E. W. McKenna and W. J. Underwood, as follows:

Whereas, the President of this, the Des Moines Union Railway Company, did on the 21st day of November A. D. 1906, by written contract, lease in the name of this Company to Charles Hewitt for a term of one hundred (100) years from and after January 1st A. D. 1907 all of the South one-third of lot ten (10) in block twenty (20) of the Original Town of Fort Des Moines, now a part of the City of Des Moines, Iowa, except that part of the north four (4) feet of said South one-third which lies west of the east thirty-six (36) feet of said lot ten (10) and

Whereas, said Lease as executed has been presented to, considered and approved by this Board,

Now Therefore, Be It Resolved that said lease and the action of the President of this Company in executing the same in the name of and on behalf of this Company, he and the same  
220 are hereby fully ratified and confirmed and said lease is hereby declared to be the act and deed of this Company."

"We, E. W. McKenna and W. J. Underwood, Directors of the Des Moines Union Railway Company hereby authorize J. T. Gillick to attend the regular monthly meeting of the Board of Directors of said Company on December 11th 1906, and cast our vote in favor of the above Resolution.

E. W. McKENNA,  
W. J. UNDERWOOD."

"I, E. B. Pryor, a Director of the Des Moines Union Railway Company hereby authorize F. C. Hubbell to attend the regular monthly meeting of the Board of Directors of said Company, on December 11th, 1906, and cast my vote in favor of the above Resolution.

E. B. PRYOR."

Thereupon, the lease to Charles T. Hewitt, dated November 21, 1906, for all of the south one-third of lot ten (10) in block twenty (20) O. T. of Fort Des Moines, Iowa, except that part of the north four (4) feet of said south one-third, which lies west of the east thirty-six (36) feet of said lot ten (10)—all now included in the corporate limits of the City of Des Moines, Iowa, was read by the Secretary and the Resolution being put to a vote, the motion to adopt said Preamble and Resolution received the unanimous affirmative vote of all the Directors, as follows:

F. C. Hubbell, H. D. Thompson, F. M. Hubbell, C. Huttenlocher, G. C. Hubbell, voted Aye. E. W. McKenna and W. J.

Underwood, by their proxy, J. T. Gillick, voted Aye. E. 221 B. Pryor, by his proxy, F. C. Hubbell, voted Aye.

Thereupon, the Resolution was declared adopted.

There being no further business before the Board, the meeting adjourned.

F. M. HUBBELL,  
Secretary.

### Defendants' Exhibit 167.

#### Des Moines Union Railway Company.

Stockholders' Meeting, Des Moines, Iowa, January 18, 1907.  
(Friday)

The Stockholders of the Des Moines Union Railway Company met at the office of the President of the Company in Des Moines, this day, pursuant to adjournment.

There were present the following Stockholders in person, viz:

F. M. Hubbell, holding .....	1 share.
F. C. Hubbell, holding .....	1 share
F. M. Hubbell & Son, holding .....	205 shares
C. Huttenlocher, holding .....	1 share
G. C. Hubbell, holding .....	1 share
H. D. Thompson, holding .....	1 share
New York Trust Co. Trustee,	
By E. B. Pryor Atty. & Agt. holding .....	98 shares
E. B. Pryor, holding .....	1 share
E. W. McKenna, holding .....	1 share
Chicago, Milwaukee & St. Paul Railway Company	
By E. W. McKenna, Vice President, holding .....	98 shares
Chas. E. Vroman, holding .....	1 share
Total .....	309 shares

F. C. Hubbell, President, presiding.

The minutes of the meeting of the Directors held December 13th 1906, at which the lease to Chas. T. Hewitt was ratified & approved, were read and approved.

Mr. Pryor moved and it was carried, that the Stockholders proceed to the election of eight (8) Directors.

223 Mr. McKenna nominated Charles E. Vroman and E. W. McKenna.

Mr. Pryor nominated himself, and Mr. Thompson nominated F. C. Hubbell, F. M. Hubbell, H. D. Thompson, C. Huttenlocher and G. C. Hubbell.

On motion of Mr. McKenna seconded by H. D. Thompson, the Secretary was instructed to cast the vote of all of the stock represented, viz: 39999 shares, for the eight persons above nominated as Directors. The motion was carried and the Secretary cast the 39999 votes in accordance with said motion and E. W. McKenna, Chas. E. Vroman, E. B. Pryor, F. C. Hubbell, F. M. Hubbell, H. D. Thompson, C. Huttenlocher and G. C. Hubbell were declared duly elected as Directors for the ensuing year. Whereupon the Stockholders meeting adjourned.

F. M. HUBBELL,  
Secretary.

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#### **Defendants' Exhibit 168.**

#### **Des Moines Union Railway Company.**

(Directors Meeting) Des Moines, Iowa, January 18, 1907.

Immediately upon the adjournment of the Stockholders' Meeting the newly elected Directors, viz: F. C. Hubbell, E. B. Pryor, E. W. McKenna, Chas. E. Vroman, F. M. Hubbell, H. D. Thompson, C. Huttenlocher and G. C. Hubbell, convened as a Board of Directors.

The first business being the election of officers, H. D. Thompson nominated F. C. Hubbell as President. The nomination was seconded by F. M. Hubbell and on the question being put, F. C. Hubbell was elected President.

Mr. McKenna moved that H. D. Thompson be elected as Vice President & Treasurer. Seconded by Mr. Pryor, and thereupon H. D. Thompson was elected Vice President & Treasurer.

Mr. McKenna moved that F. M. Hubbell be elected Secretary which was seconded by H. D. Thompson, and thereupon F. M. Hubbell was elected Secretary.

The President read his annual report, together with the annual report of Superintendent Wagner, and his letter accompanying same, which are as follows:

"To the Directors of the Des Moines Union  
Railway Company.

Herewith I submit a brief report of the operation of this Company for the year ending December 31st, 1906.

At the last annual meeting the President was authorized to make an exchange of property with the Chicago, Rock Island & Pacific Railway Company of real estate in East Des Moines.

225 I attach hereto a blue print made from an accurate survey of the premises showing the proposed new boundary lines between the properties of the two Companies, and am able to report that the matter is now in the hands of the Second Vice President of the Rock Island Company for final decision, with the recommendations of the several Departments through which the negotiation has passed during the year 1906, and we confidently expect to consummate the exchange at an early date.

In accordance with the authority of the Board the President subscribed for sixty shares of stock of the Iowa Transfer Railway Company, to which stock the following Railroads have also subscribed for equal amounts:

Chicago Rock Island & Pacific Ry.

Chicago, Burlington & Quincy Ry.

Chicago, Great Western Ry.

Des Moines Western Ry.

The transfer was completed and put in operation on October 1st 1906 and I am glad to say, is giving entire satisfaction to all the Companies using the same. The final cost of the yard, office and other accessories was \$30,862.41 and the Board of Directors of the Iowa Transfer Railway Company authorized the issuing of one thousand dollars additional capital stock, to be divided among the five companies. Therefore, our Company should subscribe for two hundred dollars more of this stock.

The Des Moines Union Railway Company expended \$1026.66 in building a connecting track from its main line to a connection with the Iowa Transfer Railway, as is shown by the Superintendent's report hereto attached.

226 The only additional tracks constructed by the Des Moines Union during the past year are those mentioned in the Superintendent's report which are located west of the Water Works building. This construction was necessary in order that we might handle trains into and out of Des Moines. Owing to the increase in business, we were frequently without a single clear track in our west yard excepting the main line.

I again desire to call to the attention of the Directors to the necessity for a double main line from the east end of the Des Moines River bridge to East Fifth Street from which point we have double track to Chicago Great Western Junction.

The question of the Des Moines river bridge has been discussed with the Engineering Department, of the St. Paul and Wabash Companies, all of which correspondence is now in the President's office, and I shall be glad to have this question further discussed in view of the position taken by Mr. Cunningham of the Wabash Railroad Company.

During the past year this Company has been subjected to more litigation than in any previous year of its history, the Chicago Great Western Railway Company having brought suit in the Iowa District Court involving some eighty thousand dollars. At the hearing of this case the Great Western were defeated. Instead of appealing, they dismissed the case and have brought a new action in the Federal Court at Des Moines.

The County of Polk through its Tax Ferrets, brought action against this Company for mulct taxes on properties which we had permitted Anheuser-Busch, Schlitz and other Breweries to occupy with storage for handling their beers. The amount involved with the penalties was about Sixteen  
227 Thousand dollars. I am glad to report that we have also won this case.

The case of Chas. Clark, switchman, killed December 20th 1905, which was referred to in report of last year, was settled in January 1906, for \$200.00.

R. D. McMannus, Switchman, killed January 8th, 1906 for which the liability of our Company was beyond question, was settled at a total expense of \$3108.70; this being the only expensive personal injury claim our Company has ever had.

The case of Wm. Froah, Trespasser, killed on our tracks by switch engine May 23d 1903, was disposed of during the year 1906 by dismissal at the cost of plaintiff.

At this moment we have no pending claims for personal injuries. Total amount paid for all personal injuries during the year 1906 was \$3540.41.

This Company has loaned the sum of \$75,404.59; some of the money at 4%, some at 5%, 5½% and 6%. All of the loans are amply secured. Schedule of loans hereto attached.

Our Company has recently ordered of the Baldwin Locomotive Works two switching engines, to be the same as our en-

gines Nos. 4 and 5. These engines will be delivered to us in June 1907, and will cost \$9700. each F. O. B. Des Moines.

I desire to add, in closing, my concurrence in the several recommendations made in the report of the Superintendent hereto attached.

Respectfully submitted,

F. C. HUBBELL, President."

228

Loans made during year 1906.

Des Moines Clay Manufacturing Co. on demand, Interest at 5% per annum, April 24, 1906.....	\$13,000.00
May 1st, Ida and Henry Reigleman, 5 notes, Nos. 1, 2, 3, 4, and 5 due May 1, 1916, interest 5½% per annum.....	\$10,000.00
May 11th, Judgment John Hawk, Trustee vs. the City of Des Moines No. 15530 Law, at 6% per annum.....	\$ 9,888.86
Mar. 1st, Frank Tassler, Farm Loan 5% per annum, due March 1st, 1912.....	\$ 4,500.00
Mar. 1st, Wm. Nelson, Farm Loan due Mar. 1, 1912, 5% per annum.....	\$ 6,000.00
Nov. 26th, Polk County warrants as follows:	
No. 49053, 5% annual interest	\$1664.40
No. 49054, " " "	\$ 130.36
No. 49055, " " "	\$ 122.17
No. 49056, " " "	\$ 42.00
No. 49057, " " "	\$ 24.00
No. 49058, " " "	\$ 32.80
Decr. 29th, Des Moines Savings Bank, Certificate of deposit	\$30,000.00
Interest for six months 3%	
" " twelve " 4%	

\$75,404.59

"Des Moines January 3d, 1907.

Mr. F. C. Hubbell, President D. M. U. Ry. Des Moines.

Dear Sir:—

Referring to the close of the year 1906, I have to report the completion of the connection of our tracks with the Iowa Transfer Railway Company in East Des Moines at a cost of \$1,026.66.

We have also constructed 4540 feet of side track west of the Water Works, with a capacity of Seventy-four (74) cars, at a cost of \$5,692.55.

We are greatly in need of additional repair tracks. The number of bad order cars, which came to us from our tenants, the Wabash and the C. M. & St. P., are far in excess of our rip track capacity, on this account we are unable to place as many cars on repair tracks as the prompt movement and

shortage of cars demand. I therefore recommend that we build additional Repair Tracks to accommodate at least thirty (30) more bad order cars.

On account of increase in business, our present Round House is entirely too small and we need at least five (5) additional stalls, to properly care for the engines, which come to us from our tenant companies.

We have but one boiler to furnish steam to operate the machinery, heat the Round House and fire up engines. This is not sufficient for all these purposes, during cold weather, necessitating our using an engine, frequently, to assist in furnishing steam to take care of our requirements, this also being true when our one boiler requires repairs, an engine is expensive and not always available. I therefore recommend that an additional boiler be installed in the Boiler Room, so we may properly take care of our needs.

The past year has shown a large increase in our wheelage, and the indications are that the coming year of 1907 will surpass that of 1906.

Yours truly,

J. A. WAGNER."

230

Des Moines Union Railway Company.

Report for Year 1906.

The Superintendent, J. A. Wagner, laid before the meeting a statement of the expenditures for the year ending December 31st 1906, amounting to \$12,579.64; the details of which are as follows:

Pd. for constructing new side tracks west of Water Works	\$ 5,570.98
Pd. for constructing connection with Iowa Transfer Railway Company	\$ 1,026.66
Pd. for sixty shares of the capital stock of the Iowa Transfer Railway Company	\$ 6,000.00

\$ 12,597.64

The above disbursements were provided for as follows:

Total amount of "Surplus Earnings" year 1906	\$ 61,081.45
Less amount disbursed account of improvement etc. during year 1906, as per statement above	\$ 12,597.64

Leaving net amount of "Surplus Earnings" year 1906	\$ 48,483.81
The balance to credit of "Surplus Earnings" on January 1st 1906, amounted to	\$ 76,792.97
Total amount of "Surplus Earnings" for year 1906	\$ 61,081.45

\$137,874.42

Paid by appropriation of "Surplus Earnings" for year 1906	\$ 12,597.64
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Balance of credit of "Surplus Earnings" Jan'y 1st, 1907	\$125,276.78
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231 Mr. Vroman offered the following Resolution in regard to exchanging Real Estate with the Chicago, Rock Island & Pacific Railway Company, which having been seconded, was passed by the unanimous vote of all the directors, viz:

"Resolved, that the officers of this Company be authorized and empowered to effect an exchange of real estate with the Chicago Rock-Island & Pacific Railway Company as per recommendation of the President of this Company, of this date, and that the said officers are hereby authorized, empowered and directed to that end, to convey to the Chicago, Rock Island and Pacific Railway Company the following described parcels of land.

All that part of Block Twelve (12) Town of Des Moines described as follows: Commencing at the south-east corner of lot twelve (12) of said Block, thence westerly along the south line of said Lot twelve (12) to the south-west corner thereof; thence northerly along the west line of Lots twelve (12) and thirteen (13) of said Block, seventy (70) feet; thence south-easterly in a direct course to a point in the east line of Lot twelve (12) of said Block, thirty-two (32) feet northerly from the place of commencement; thence southerly thirty-two (32) feet to the place of commencement.

Also, commencing at the south-west corner of Lot Eleven (11) of said Block Twelve (12) thence northerly along the westerly line of said Lot Eleven (11) twenty-five and nine-tenths (25.9) feet; thence southeasterly in a direct course to a point in the south line of said Lot Eleven (11), Seventy-six (76) feet easterly from the place of commencement; thence west-  
 232 erly along the southerly line of said Lot Eleven (11) Seventy-six (76) feet to the place of commencement.

All that part of Block Twenty-one (21) Town of Des Moines, described as follows: commencing at the south-east corner of Lot One (1) of said Block, thence westerly along the southerly line of said Lot one (1) to the southwest corner thereof; thence northerly along the westerly line of said Lot One (1) to the northwest corner thereof; thence easterly along the northerly line of said Lot One (1) forty-three and one-tenth (43.1) feet; thence southeasterly in a direct course to a point in the east line of said Lot One (1) eleven and nine-tenths (11.9) feet northerly from the place of commencement; thence southerly eleven and nine-tenths (11.9) feet to the place of commencement.

Also commencing at the southwest corner of Lot Nine (9) of said Block Twenty-one (21), thence northerly along the westerly line of Lots Nine (9) and Ten (10) of said Block fifty-

nine (59) feet; thence south-easterly in a direct course to a point in the south line of Lot Nine (9) of said Block, one-hundred twenty-nine and five tenths (129.5) feet easterly from the place of commencement; thence westerly one hundred twenty-nine and five-tenths (129.5) feet to the place of commencement.

All of Lots Eleven (11) and Eighteen (18) of the Official Plat of Lots two (2) three (3) four (4) five (5) six (6) seven (7) and eight (8) of Block Twenty-one (21) Town of Des Moines.

All of Lots nine (9) and eleven (11) of the Official Plat of Lots One (1) Two (2) nine (9) and ten (10) Block Twenty (20) Town of Des Moines.

All that part of the Official Plat of Lots three (3) four  
233 (4) five (5) six (6) seven (7) and eight (8) of Block

Twenty-two (22) Town of Des Moines, described as follows: Commencing at the southwest corner of Lot thirteen (13) of said Official Plat, thence northerly along the westerly line of said Lot fourteen and eight-tenths (14.8) feet; thence south-easterly in a direct course across Lots thirteen (13) and twelve (12) of said Official Plat to a point in the southerly line of said Lot twelve (12) sixty-eight and four-tenths (68.4) feet south-easterly from the place of commencement; thence north-west-erly along the southerly line of lots twelve (12) and thirteen (13) sixty-eight and four-tenths (68.4) feet to the place of commencement.

All of said property now being included in and forming a part of the City of Des Moines, Polk County, Iowa. The land contained in the above described property is twenty-eight thousand six hundred and nine (28,609) square feet; upon receiving from the said Chicago, Rock Island and Pacific Railway Company a deed, duly executed by the officers of said Company, for the following described pieces and parcels of land;

The north twenty-five (25) feet of lots fourteen (14) and nine (9) Block Sixteen Town of Des Moines;

The north fourteen (14) feet of Lots nine (9) ten (10) eleven (11) twelve (12) thirteen (13) and fourteen (14) Block fifteen (15) Town of Des Moines;

All that part of Block fourteen (14) Town of Des Moines described as follows: Commencing at the north-west corner of lot fourteen (14) of said Block, thence easterly along the north-erly line of said lot fourteen (14) to the northeast corner  
234 thereof; thence southerly along the easterly line of said lot fourteen (14) fifteen and eight-tenths (15.8) feet;

thence westerly in a direct course to a point in the west line of said lot fourteen (14) fourteen (14) feet southerly from the place of commencement, thence northerly fourteen feet to the place of commencement.

Also commencing at the northwest corner of lot nine (9) of said Block fourteen (14), thence easterly along the northerly line of said lot nine (9) to the northeast corner thereof; thence southerly along the easterly line of said lot nine (9) thirty-seven (37) feet; thence westerly in a direct course to a point in the west line of said lot nine (9) sixteen and five-tenths (16.5) feet southerly from the place of commencement; thence northerly sixteen and five-tenths (16.5) feet to place of commencement.

All that part of Block thirteen (13) Town of Des Moines described as follows: Commencing at the northwest corner of lot fourteen (14) of said Block, thence easterly along the northerly line of said lot fourteen (14) to the northeast corner thereof; thence southerly along the easterly line of lots fourteen (14) and thirteen (13) of said Block; sixty-one (61) feet; thence westerly in a direct course to a point in the west line of lot fourteen (14) of said Block, forty seven and nine-tenths (47.9) feet southerly from the place of commencement; thence northerly forty-seven and nine-tenths (47.9) feet to the place of commencement.

235 Also commencing at the northwest corner of lot ten (10) of said Block thirteen (13) thence easterly along the northerly line of said lot ten (10) to the northeast corner thereof; thence southerly along the easterly line of said lot ten (10) twenty-five and nine-tenths (25.9) feet; thence westerly in a direct course to a point in the west line of said lot ten (10) six and three-tenths (6.3) feet southerly from the place of commencement; thence northerly six and three-tenths (6.3) feet to the place of commencement.

All of said property now being included in and forming a part of the City of Des Moines, Polk County, Iowa.

The land contained in the above described property is twenty-eight thousand six hundred and six (28,606) square feet.

Resolved Further, that the Central Trust Company of New York, Trustee, under the General Mortgage of this Company, dated November 1st, 1887, be requested to release from the lien of said mortgage the several pieces of real estate herein mentioned, which are to be conveyed to the Chicago Rock Island and Pacific Railway Company.

Mr. Pryor offered the following Resolution which was seconded by Mr. McKenna, viz:

Resolved that the amount paid for the sixty (60) shares of the capital stock of the Iowa Transfer Railway Company and the amount expended in building the track connection with the Iowa Transfer Railway Company be carried on the books of the Company in suspense."

The Ayes and Nays were called for, Those voting Aye were Messrs. McKenna, Pryor and Vroman. Those voting Nay were Messrs. F. C. Hubbell, F. M. Hubbell, H. D. Thompson, 236 C. Huttenlocher and G. C. Hubbell. The vote resulting three for and five against it, the Resolution was declared lost.

Mr. Thompson moved that the Company subscribe and pay for two shares of stock of the Iowa Transfer Ry. Co.

Mr. Vroman moved to amend by adding to the motion "that the amount to be paid be carried in a suspense account."

On the amendment Messrs. McKenna, Pryor and Vroman voted Aye. Messrs. F. C. Hubbell, F. M. Hubbell, H. D. Thompson, C. Huttenlocher and G. C. Hubbell voted Nay. The vote resulting three for and five against it, the amendment was lost.

Upon the original motion Messrs. F. C. Hubbell, F. M. Hubbell, H. D. Thompson, C. Huttenlocher, and G. C. Hubbell, voted Aye. Messrs. McKenna, Pryor and Vroman voted Nay,—five Ayes and three Nays, and the motion was lost.

Mr. Thompson moved, and Mr. McKenna seconded that the Des Moines Union Ry. Co. subscribe and pay for two shares additional of the capital stock of the Iowa Transfer Ry Co. Carried unanimously.

Mr. Pryor moved that the amount paid for the two shares of the capital stock of the Iowa Transfer Railway Co. be carried on the books of the Company, in suspense. Messrs. McKenna, Pryor, and Vroman voted Aye. Messrs. F. C. Hubbell, F. M. Hubbell, H. D. Thompson, C. Huttenlocher and G. C. Hubbell voted Nay,—three Ayes and five Nays, and the motion was declared lost.

Mr. McKenna offered the following resolution—

"Resolved that the action of the Officers of this Company in building a track, or tracks, west of the Water Works and the payment for the same, be not approved." Seconded by Mr. Vroman.

237 Upon the Resolution Messrs. McKenna, Pryor and Vroman voted Aye. Messrs. F. C. Hubbell, F. M. Hubbell, H. D. Thompson, C. Huttenlocher and G. C. Hubbell voted Nay,—three Ayes and five Nays, Resolution lost.

"Resolved that the action of the President in ordering two new switching locomotives to be purchased, be and the same is hereby approved." Carried unanimously.

Mr. Pryor offered the following resolution—

"Resolved that the amount to be paid for the two new switching locomotives, when paid, be carried on the books of this Company in Suspense."

Upon this Resolution Messrs. McKenna, Pryor and Vroman voted Aye. Messrs. F. C. Hubbell, F. M. Hubbell, H. D. Thompson, C. Huttenlocher and G. C. Hubbell voted Nay, three Ayes and five Nays,—Resolution lost.

Mr. Pryor filed a protest as follows:—

"The Chicago, Milwaukee & St. Paul Railway Company and the Wabash Railroad Company hereby again enter formal protest against the action of the Officers of the Company in making charges or payments of any kind, against or from the so called "Surplus Earnings" account and request that this protest be entered in the records of this meeting."

The building of a new bridge across the Des Moines River was discussed but was laid over, awaiting a conference and agreement between the Chief Engineers of the Wabash Railroad Company and the Chicago, Milwaukee & St. Paul Railway Company, as to whether a new bridge be erected or the present bridge strengthened.

238 That part of the President's report as to the loaning of \$75,404.59 was discussed and it was agreed that the Treasurer shall convert the loans into money without loss to the Company and that it be then loaned to solvent Banks, or other financial institutions at 3% interest payable on call.

On motion duly seconded, the Board of Directors adjourned.

F. M. HUBBELL,  
Secretary.

Moines at 10 o'clock A. M. January 3d 1908, pursuant to adjournment.

There were present the following stockholders viz:

F. C. Hubbell, holding.....	1 share
F. M. Hubbell, holding.....	1 "
F. M. Hubbell & Son, holding.....	2495 shares
G. C. Hubbell, holding.....	1 share
H. D. Thompson, holding.....	1 "
N. T. Guernsey, holding.....	1 "
New York Trust Company, Trustee,	
By E. B. Pryor, proxy, holding.....	498 shares
E. B. Pryor, holding.....	1 share
E. W. McKenna, holding.....	1 "
Chicago, Milwaukee & St. Paul Railway Company, by E. W.	
McKenna, Vice Pres. holding.....	998 shares
Chas. E. Vroman, holding.....	1 share
Total.....	3999 shares.

Upon motion E. W. McKenna was elected Chairman of the meeting and F. M. Hubbell Secretary thereof.

There were read to the meeting the minutes of the meetings of the board of directors and of the meetings of the stockholders held during the year 1907.

Thereupon, the meeting proceeded to the election of a board of directors, and the following nominations were made.

Mr. McKenna nominated Chas. E. Vroman & E. W. McKenna.

240 Mr. F. C. Hubbell nominated E. B. Pryor.

Mr. E. B. Pryor nominated F. M. Hubbell, F. C. Hubbell, H. D. Thompson, G. C. Hubbell and N. T. Guernsey.

On motion of N. T. Guernsey, seconded by Chas. E. Vroman, the following resolution was unanimously adopted—

Be It, and it is hereby resolved that the Secretary be and he is hereby instructed to cast the unanimous vote of all the stock represented at this meeting, viz: three thousand nine hundred and ninety-nine (3999) shares, for the persons who have been nominated for directors of this Company as shown by the records of this meeting.

Thereupon, the Secretary proceeded to cast three thousand nine hundred and ninety-nine (3999) votes pursuant to the foregoing resolution for each of the following named persons as directors of this Company, viz: E. W. McKenna, Chas. E. Vroman, E. B. Pryor, F. M. Hubbell, F. C. Hubbell, H. D. Thompson, G. C. Hubbell and N. T. Guernsey, and an-

nounced that the said vote had been so cast, and thereupon they and each of them were declared to be duly elected as members of the board of directors of this Company.

Thereupon, upon motion, the meeting adjourned.

F. M. HUBBELL,  
Secretary.

241

### Defendants' Exhibit 170.

#### Des Moines Union Railway Company.

(Directors Meeting) Des Moines Iowa January 3d, 1908.

Minutes of the annual meeting of the Board of Directors of the Des Moines Union Railway Company.

Immediately upon the adjournment of the Stockholders' meeting the newly elected directors, viz: E. W. McKenna, Chas. E. Vroman, E. B. Pryor, F. M. Hubbell, F. C. Hubbell, H. D. Thompson, G. C. Hubbell and N. T. Guernsey, convened as the board of directors.

The first business being the election of officers the following officers were elected by the unanimous vote of all of the directors.

F. C. Hubbell President

H. D. Thompson Vice President & Treasurer

F. M. Hubbell, Secretary.

Thereupon, the president read his annual report, including the annual report of J. A. Wagner, Superintendent, which are as follows:—

Des Moines Iowa January 1<sup>st</sup> 1908.

To the Directors of the Des Moines Union Railway Company:  
Gentlemen:

Herewith a report from the Superintendent of this Company respecting business for the year 1907, which I will include and make a part of my report for the year 1907.

I desire especially to call the attention of the Directors to the necessity of a stronger bridge over the Des Moines River.

The bridge at present is overloaded as follows:

242	Compression members .....	15%
	Tension " .....	16%
	Flanges of stringers .....	25½%

Therefore, it is imperative that a stronger bridge be constructed at once, to take the place of the present structure, and in view of the necessity for a double track bridge, to accommodate the business of the Company, together with the obvious economy of building a double track bridge at this time instead of two single track bridges, I am taking preliminary steps toward the construction of a new double track bridge.

At a meeting in January 1907, authority was given to the President to subscribe for sixty shares of the capital stock of the Iowa Transfer Railway Company. It afterward developed that additional funds were necessary to complete the tracks and office and each of the companies, owners of the stock of the Transfer Company, subscribed for two additional shares, making the total increase, in the capital stock of the Iowa Transfer Railway Company, One thousand dollars.

Litigation has grown to be one of the principal features of the Des Moines Union Railway Company. The action brought by the Chicago Great Western Railway Company, for an accounting, has not progressed owing to the fact that that Company has delayed taking any evidence.

Since the last annual meeting the Chicago, Milwaukee & St. Paul Railway Company and the Wabash Railroad Company have brought action in the Federal Court, asserting that they are the beneficial owners of the Company's property, and asking for an accounting.

243 The Chicago, Milwaukee & St. Paul Railway Company has also brought action in the State Courts attacking the title to the west mile of track of the Des Moines Union Railway Company.

The Minneapolis & St. Louis Railroad Company has also served us with notice for an accounting on their bills, but the same has not yet reached the point of litigation.

The Des Moines Iowa Falls & Northern Railway Company's lease for the use of the Union Passenger Station expired December 31st, 1907, and that Company desires an extension of its lease, but asks for a modification of the rental charge. They are continuing to use the station subject to the action of the board of directors of this Company, at its meeting on January 24, 1908.

The year 1907 was fortunate in respect to personal injuries. The total expense for the year in settlement for injuries, including Surgeon's and Hospital fees, amounts to \$1027.15.

I cannot close this report without again referring to the necessity for the fourteen hundred feet of second main line

in East Des Moines, additional boiler capacity in the Round House, and additional stalls to the Round House in order to properly house the engines of our tenants.

Respectfully submitted,

F. C. HUBBELL, President.

#### 244 Superintendent's Report for the Year 1907.

The Superintendent, J. A. Wagner, laid before the meeting a statement of expenditures for the year ending December 31st, 1907, amounting to \$24,074.08 the details of which are as follows:

Paid for two new switch engines .....	\$ 31,030 00
Paid for constructing new sidetrack to Iowa Glass Company Building .....	9 204 00
Paid for two additional shares of the Capital stock of the Iowa Transfer Ry. Co. ....	9 300 00
	<hr/>
	\$ 31,534 00
The above disbursements were provided for as follows:	
Total amt. "Surplus Earnings" for year 1907 .....	\$ 75,513 12
Less amt. disbursed account improvements etc. during year 1907, as per statement above .....	9 24,074 08
	<hr/>
Leaving net amt. "Surplus Earnings" year 1907 .....	\$ 51,439 04
The balance to credit "Surplus Earnings" on January 1st, 1907, amounted to .....	\$125,226 78
Total amount of "Surplus Earnings" for year 1907 .....	\$ 75,513 12
	<hr/>
forward .....	590,700 00
(New page)	
Forward .....	\$390,700 00
Paid by appropriation of "Surplus Earnings" for year 1907 .....	\$ 24,074 08
	<hr/>
Balance to credit of "Surplus Earnings" January 1st 1908 .....	\$176,711 92

J. A. WAGNER

245 The Treasurer reported orally, showing in detail how he had invested funds of the Company held by him.

On motion of Mr. Vroman, seconded by Mr. Pryor, the following resolution was unanimously adopted:—

Resolved, that the Treasurer of this Company be and he is hereby authorized and directed, until the further action of this board in the premises, to deposit all funds of this Company coming into his hands, in the Des Moines Savings Bank and the Iowa National Bank of Des Moines, Iowa; and the action of said Treasurer in heretofore depositing said funds is hereby approved ratified and confirmed.

Mr. Guernsey brought up the matter of the President's salary, and after a general discussion it was the sense of the meeting that the President is entitled to a reasonable compensation for the services rendered by him to the Company. At the request of Mr. McKenna this matter was passed for the determination of the amount of the President's salary to be taken up at the next meeting of the board.

On motion of Mr. Guernsey, seconded by Mr. Vroman, the following resolution was unanimously adopted:

Resolved that the president of this company be and he is hereby directed to, as soon as practicable, cause plans to be prepared for a new double track bridge across the Des Moines River, together with an estimate of its cost, and to submit the same to a meeting of this board to be called for that purpose; and that in this connection the engineer of this company consult with the chief engineers of the Chicago, Milwaukee & St. Paul Railway Company and Wabash Railroad Company.

The President reported a proposition looking to the construction of a track from a connection with the present tracks of the Company to the plant of the Iowa Portland Cement Company. After discussion of the matter the President was directed to cause a survey to be made and an estimate of the probable cost of this work, and pending this information the matter was passed.

The President reported to the meeting the pending differences with the Minneapolis & St. Louis Railroad Company as to the proper construction of that portion of the contract with the Des Moines & Fort Dodge Railroad Company, fixing the amount of rent to be paid by it.

Thereupon, it was determined that a brief upon the proper construction of this portion of the lease be prepared by N. T. Guernsey, the company's counsel, and the President was directed to adjust the matter upon the basis of making a minimum charge of four hundred dollars (\$400) per month for two trains and in addition charging the Minneapolis & St. Louis Railway Company only for the actual days upon which trains in excess of the minimum two are run, and readjusting the account up to this time upon that basis.

Upon motion of Mr. Vroman, seconded by Mr. Thompson, the following resolution was unanimously adopted:—

Resolved, that the President and Secretary of this Company be and they are hereby authorized and directed to execute in behalf of this Company an extension of the present lease from

247 this Company to the Des Moines Iowa Falls & Northern  
Railway Company, such extension agreement to be at-  
tached to the original lease and to be in substantially the  
following form:—

The within contract, with all of its covenants and condi-  
tions, except as to compensation, is hereby extended to con-  
tinue and remain in force for a term of six months, and there-  
after until sixty days written notice of cancellation thereof by  
either party thereto.

The compensation to be paid by the second party hereun-  
der shall be two hundred dollars per month, payable on the  
first day of the next succeeding month.

Executed in duplicate on this ..... day of  
January A. D. 1908.

DES MOINES UNION RAILWAY COMPANY,  
By ..... President.

Attest:  
Secretary.

The following protest was read to the meeting and filed;

"Des Moines, Iowa, Jany. 3, 1908. As the representatives  
of the Wabash Railroad Company, the Chicago, Milwaukee &  
St. Paul Railway Company, and also as Directors in the Des  
Moines Union Railway Company Board of Directors, we again  
make formal protest against the practice of charging expendi-  
tures of any description against the so called "Surplus Earn-  
ings" Account. It being claimed by us at all times that the  
revenues accruing from Rental, Switching, Earnings, etc.  
should be applied monthly to the reduction of the expenses of  
the Des Moines Union Railway Company and the balance of  
the expenses be collected from the companies.

248 We further protest against that part of the Superin-  
tendent's report, just submitted, in which he states  
that a part of the earnings for the year 1907 has been ap-  
propriated toward the payment of two switching en-  
gines .....\$23,050.00

2 shares of the capital stock of the Iowa Transfer  
Railway Company, .....\$ 200.00

and a siding to the Iowa Glue Company.....\$ 824.00

Total .....\$24,074.00

We do not protest against these improvements but against the application of earnings toward the payment therefor.

THE WABASH RAILROAD COMPANY,  
By E. B. Pryor, Vice President.

THE CHICAGO MILWAUKEE & ST. PAUL  
RY. CO.,  
By E. W. McKenna 2nd Vice President.

E. B. Pryor  
E. W. McKenna  
Chas. E. Vroman

Directors.

Upon motion the meeting adjourned to meet at the call of the President.

F. M. HUBBELL,  
Secretary.

249

### Defendants' Exhibit 171.

#### Des Moines Union Railway Company.

##### Stockholders Adjourned Meeting.

The Stockholders of the Des Moines Union Railway Company met at the office of the Company in the City of Des Moines, Iowa, at ten o'clock A. M. January 8th, 1909, pursuant to adjournment.

There were present the following stockholders:

F. C. Hubbell, holding.....	1 share
F. M. Hubbell, holding.....	1 share
F. M. Hubbell & Son, holding.....	2495 shares
G. C. Hubbell, holding.....	1 share
H. D. Thompson, holding.....	1 share
N. T. Guernsey, holding.....	1 share
New York Trust Company, Trustee, By E. B. Pryor, proxy, holding.....	498 shares
E. B. Pryor, holding.....	1 share
E. W. McKenna, holding.....	1 share
Charles E. Vroman, holding.....	1 share
Chicago, Milwaukee & St. Paul Ry. Co. By E. W. McKenna, Vice President, holding.....	998 shares
Total.....	3999 shares

Upon, motion F. C. Hubbell was elected Chairman of the meeting and F. M. Hubbell Secretary thereof.

There were read to the meeting the minutes of the meetings of the Board of Directors and of the stockholders held during

the year 1908. On motion, the minutes of such meetings for the year 1908 were approved.

250 Thereupon the meeting proceeded to the election of the Board of Directors and the following nominations were made;—E. W. McKenna nominated the following persons, F. M. Hubbell, F. C. Hubbell, G. C. Hubbell, H. D. Thompson, N. T. Guernsey, as members of the Board of Directors for the ensuing year.

N. T. Guernsey nominated E. B. Pryor, E. W. McKenna and Charles E. Vroman for membership in the Board of Directors for the coming year.

Upon motion of N. T. Guernsey, seconded by E. B. Pryor, the following resolution was unanimously adopted.

“It is hereby resolved that the Secretary be and he is hereby instructed to cast the unanimous vote of all stock represented at this meeting, viz, three thousand nine hundred and ninety-nine (3999) shares for the persons who have been nominated for Directors of this Company, as shown by the records of this meeting.”

Thereupon, the Secretary proceeded to cast three thousand nine hundred and ninety-nine (3999) votes, pursuant to the said resolution, for each of the following named persons as Directors of this Company, E. W. McKenna, Charles E. Vroman, E. B. Pryor, F. M. Hubbell, F. C. Hubbell, H. D. Thompson, G. C. Hubbell, N. T. Guernsey, and announced that such votes had been so cast. Thereupon, they and each of them, were declared to be duly elected as members of the Board of Directors of this Company.

Upon motion the meeting adjourned.

F. M. HUBBELL,  
Secretary.

251

### **Defendants' Exhibit 172.**

#### **Des Moines Union Railway Company.**

Directors' Meeting Des Moines Iowa, Jany. 8, 1909.

Minutes of the Annual Meeting of the Board of Directors of the Des Moines Union Railway Company.

Immediately upon the adjournment of the Stockholders' Meeting, the newly elected Directors

E. W. McKenna  
E. B. Pryor,  
H. D. Thompson,

Charles E. Vroman  
F. M. Hubbell,  
F. C. Hubbell  
G. C. Hubbell,  
N. T. Guernsey.

convened as a Board of Directors.

The minutes of the meeting of the Board of Directors held January 3rd, 1908, were read, and no objections being made thereto, the same stand approved.

Thereupon the meeting proceeded to the election of officers for the ensuing year and the following officers were elected by the unanimous vote of all the Directors.

F. C. Hubbell, President  
H. D. Thompson, Vice President & Treasurer  
F. M. Hubbell, Secretary.

Thereupon, the President read his annual report including the annual report of J. A. Wagner Superintendent, which are as follows:

(For the sake of brevity, this report is omitted.)

#### Report of the Superintendent for the Year 1908.

The Superintendent, J. A. Wagner, laid before the meeting a statement of Surplus Earnings for yr. 1908 as follows:

252	Balance credit of "Surplus Earnings" account January 1st 1908.	\$176,615.82
	Total amount Surplus Earnings for year 1908.....	\$ 74,902.48

Balance to credit of Surplus Earnings Account January 1st 1909. \$251,618.30

(Signed) J. A. WAGNER Superintendent.

The following resolution proposed by Mr. E. B. Pryor and seconded by Mr. E. W. McKenna, was, upon motion, unanimously adopted.

"It is hereby resolved that the salary of the Superintendent of this Company be fixed at the sum of Three Hundred Dollars per month, to be effective January 1st 1909."

Mr. E. W. McKenna offered the following resolution and moved its adoption, such motion being seconded by Mr. E. B. Pryor. Said resolution being as follows:

"Resolved, That the President of this Company be, and is hereby authorized, in conjunction with the proper officers of the Chicago, Rock Island & Pacific Railway Company, Chicago, Burlington & Quincy Railroad Company, and the Des

Moines & Fort Dodge Railroad Company, or the Minneapolis & St. Louis Railroad Company, lessee thereof, to enter into a contract with the City of Des Moines, for the construction of a viaduct over and along West Seventh Street from a point at or near Mulberry Street to a point at or near fifty feet north of the north line of Tuttle Street, substantially in accordance with the negotiations in reference thereto evidenced by a form of Ordinance presented to the meeting."

253 Said Resolution was unanimously adopted by vote of all Directors.

Upon motion of Mr. E. B. Pryor, seconded by Mr. E. W. McKenna, the following resolution was unanimously adopted.

"It is hereby Resolved that the President of this Company shall erect a passenger station in East Des Moines in conformity with the order of the Board of Railway Commissioners of the State of Iowa, after conferring with the representatives of the Chicago, Milwaukee & St. Paul Railway Company and the Wabash Railroad Company as to the kind of station needed to fulfill the traffic requirements of East Des Moines."

The following resolution was offered by Mr. E. B. Pryor, seconded by Mr. E. W. McKenna, and was unanimously adopted.

"Resolved, That the President be and is hereby authorized to enter into an agreement with the Chicago & Northwestern Railway Company, giving the last named company the right to use a certain piece of the track of this Company to enable the Chicago & Northwestern Railway Company to reach the yards of the Iowa Transfer Company, such agreement to be subject to cancellation, upon sixty days written notice. The rental for the use of said track to be not less than fifty (\$50) dollars per month."

On motion of Mr. C. E. Vroman, seconded by Mr. E. B. Pryor, the following Resolution was unanimously adopted.

"Resolved, That it is the sense of this Board that the contract between this Company and the Des Moines & Fort Dodge Railroad Company, as properly construed, requires said last named Company to pay a minimum of Four Hundred

254 Dollars (\$400) per month for two trains, and that the compensation for additional trains be computed without reference to whether the first two trains be daily or not, and that therefore the President of this Company be directed to adhere to this construction of said contract in his negotia-

tions with said Des Moines & Fort Dodge Railroad Company as to bills not already paid by it."

Upon motion, the following resolution, offered by Mr. E. B. Pryor, and seconded by Mr. E. W. McKenna was unanimously adopted.

Resolved, That the Chief Engineers of the Chicago, Milwaukee & St. Paul Railway Company and the Wabash Railroad Company, be requested to make a joint examination of this Company's Des Moines River bridge and to make a report of their findings to the President of this Company at as early date as possible.

Upon motion the meeting adjourned.

F. M. HUBBELL, Secretary.

255

### Defendants' Exhibit 172a.

#15, 16 & 17

Issued for this as follows:

#15 Pur. Com. ....	4.98
#16 F. M. H. ....	2.50
#17 F. M. H. ....	2.48
	<u>9.96</u>

\$99600.00

No. of Certificate 9

No. of Shares 996

To whom issued: The Purchasing Committee of the Wabash St. Louis & Pacific Railway Co.

Residence. New York

Date April 8th 1890

Received Certificate No.....

For ..... Shares of Capital Stock.

In the  
Des Moines Union Railway Company.

(New York)

Des Moines, Iowa, Apr. 26, 1890

Sent to O. D. Ashley Aug. 7<sup>th</sup> 1890 by mail

Witness F. M. Hubbell.

1414

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THE C. & M. & ST. P. RY. CO. ET AL. VS.

256

Authorized Capital \$2,000,000.00. Shares \$100.00

Des Moines Union Railway Company.

Des Moines, Iowa.

No. 9

996 Shares.

This Certifies, That The Purchasing Committee of the Wabash St. Louis & Pacific Railway Co. is the owner of nine hundred ninety-six shares of the capital stock of the

Des Moines Union Railway Company,  
Des Moines, Iowa,

for which shares said Company has received the par value in payment thereof. Transferable only on the books of the Company in person or by attorney upon surrender of this Certificate, and by and with the consent of three-fourths of the Directors of said Company.

Signed at Des Moines, Iowa, this eighth day of April 1890.

(Seal)

~~F. M. HUBBELL,~~  
Secretary.

~~G. M. DODGE~~  
President.

Cancelled.

Incorporated under the laws of the state of Iowa Stock fully paid and unassessable.

See Nos. 15, 16, & 17.

257 For Value Received we hereby sell, transfer and assign to F. M. Hubbell, four hundred and ninety-eight shares, and to James F. Joy, T. H. Hubbard, Edgar T. Welles, O. D. Ashley, Purchasing Committee, Trustees, four hundred and ninety-eight, the shares of stock within mentioned, and authorize.....to secure the necessary transfer on the books of the Company.

Witness our hands and seals this 22 day of August 1890.

J. C. Otteson as to O. D. Ashley (Seal)

J. C. Otteson as to Thos. H. Hubbard (Seal)  
by O. D. Ashley, Atty.

Witnessed by

J. C. Otteson as to Edgar T. Welles (Seal)  
James F. Joy (Seal)

Henry B. Joy, witness as to signature  
of James F. Joy.

Purchasing  
Committee  
Wabash St.  
Louis & Pacific  
R. Co.

August 28<sup>th</sup> 1890. The following certificates issued in lieu hereof pursuant to above assignment.

To Jas. F. Joy	} Purchasing Committee Trustees Ctf. No. 15 for 498 shares
T. H. Hubbard	
Edgar T. Wells	
O. D. Ashley	
To F. M. Hubbell	Ctf. No. 16 for 250 shares
To F. M. Hubbell	Ctf. No. 17 for 248 shares
Total shares	996

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**Defendants' Exhibit 172b.**

Issued pursuant to assignment for part of Ctf. No. 9 Bal. of Ctf. No. 9 assigned to F. M. Hubbell, See No. 16 to 17.

\$49800

No. of Certificate 15.

No. of Shares 498

To whom issued: Jas. F. Joy, Edgar T. Wells, T. H. Hubbard & O. D. Ashley, Purchasing Committee Trustees.

Residence .....

Date Aug. 28<sup>th</sup>, 1890.

Received Certificate No. ....

For ..... Shares of Capital Stock

In The

Des Moines Union Railway Company,

Des Moines, Iowa ..... 189

Sent by mail to Jas. F. Joy, Detroit Mich. Aug. 28, '90

Mar. 21, '99 Ctf. assigned to Continental Trust Co. of the city of New York as Trustee & Ctf. No. 35 issued Mar. 23, '99.

259

See Certificate No. 34 in lieu hereof.

Authorized Capital, \$2,000,000.00Shares \$100.00

(Cancelled March 23, 1899

and Ctf. No. 35 issued in lieu hereof)

Des Moines Union Railway Company,  
Des Moines, Iowa,

No. 15

498 Shares

This Certifies, That James F. Joy, T. H. Hubbard, Edgar T. Welles & O. D. Ashley, Purchasing Committee Trustees, are the owners of four hundred ninety-eight shares of the Capital Stock of the

Des Moines Union Railway Company,  
Des Moines, Iowa,

for which shares said Company has received the par value in payment thereof. Transferable only on the books of the Company in person or by attorney upon surrender of this Certificate, and by and with the consent of three-fourths of the Directors of said Company.

Signed at Des Moines, Iowa, this 28th day of August 1890.

(Seal)

F. M. HUBBARD,  
Secretary.

C. M. DOWIE,  
President.

Incorporated under the laws of the State of Iowa Stock fully paid and unassessable.

260 For Value Received .....  
hereby sell, transfer and assign to Continental Trust Co. of the City of New York, as Trustee, the Shares of Stock within mentioned, and authorize.....  
to secure the necessary transfer on the books of the Company.

Witness our hands and seal this 21st day of March, 1899.

THOS. H. HUBBARD: Surviving mem-  
O. D. ASHLEY : bers Purchasing  
EDGAR T. WELLES : Committee, Trus-  
: tees.

Witnessed by  
J. C. Otteson.

Mar. 23, 1899, Certificate No. 35 issued as per above assignment

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### Defendants' Exhibit 172c.

No. 35 was

Issued in lieu of Ctf. No. 15, issued to Jas. F. Joy, T. H. Hubbard, Edgar T. Welles & O. D. Ashley, Purchasing Com. Trustees.

No. 49,800.00

No. of Certificate 35.

No. of Shares Mar. 23rd, 1899.

498 shares

To whom issued Continental Trust Co. of the city of New York Trustee.

Residence .....

Date March 23rd, 1899.

Received Certificate No. 35.

For 498 Shares of Capital Stock

IN THE  
DES MOINES UNION RAILWAY COMPANY

Des Moines, Iowa, Mar. 23, 1899, sent to Willard V. King,  
Secy. Continental Trust Co. of City of New York.

See No. 46.

262 Authorized Capital, \$2,000,000.00 Shares \$100.00

(Cancelled Jany. 27, 1906

New Ctf. No. 46 issued in  
lieu thereof.)

Des Moines Union Railway Company,

Des Moines, Iowa.

No. 35

498 Shares.

This Certifies, that Continental Trust Co. of the city of New York as Trustee is the owner of four hundred ninety eight Shares of the Capital Stock of the

Des Moines Union Railway Company,

Des Moines, Iowa,

for which shares said Company has received the par value in payment thereof. Transferable only on the books of the Company in person or by attorney upon surrender of this certificate, and by and with the consent of three-fourths of the Directors of said Company.

Signed at Des Moines, Iowa, this 23rd day of March, 1899.

(Seal)

~~F. M. Hubbell,~~

~~H. D. THOMPSON,~~

Secretary.

Vice President.

Incorporated under the laws of the state of Iowa.

Stock fully paid and unassessable.

(No. 46 issued in lieu of this Certificate.)

263 For Value Received .....herely  
sell, transfer and assign to The New York Trust Com-  
pany as Trustee the Shares of Stock within mentioned, and  
authorize .....  
to secure the necessary transfer on the books of the Company.

Witness ..... hand and seal this 22nd day of January,  
1906.

(Seal)

CONTINENTAL TRUST CO. OF THE CITY  
OF NEW YORK, As Trustee

By the New York Trust Company,  
Successor.

Witnessed by

Henry E. Abearn,  
Secretary.

William King,  
Vice President.

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**Defendants' Exhibit 173.****Des Moines & St. Louis Railroad Company.**

Directors' Meeting, March 23, 1881.

Present, J. S. Clarkson, J. S. Runnells, J. S. Polk, F. M. Hubbell, the entire board of directors.

Record of resolution adopted as follows:

J. S. Polk presented the following preamble and resolution, to-wit, which was unanimously adopted by the Board:

Whereas the City of Des Moines by its Council did on the 22<sup>nd</sup> day of March, 1881, pass an ordinance entitled

"An Ordinance granting the right of way to the Des Moines & St. Louis Railroad Company and its assigns, over, across along and upon certain streets and alleys in the City of Des Moines, Polk County, Iowa, and the right to bridge the Des Moines river on the South alley in said City between Court Avenue and Vine Streets".

And Whereas it was provided in such ordinance that the same shall operate as a contract between the City of Des Moines and this Company if the grant therein made shall be accepted by this Company.

And Whereas it is to the interest of this Company to accept the same,

Now therefore be it

Resolved That the Des Moines & St. Louis Railroad Company does hereby accept all the rights, privileges and obliga-

tions contained in said grant as fully as the same are set out and contained therein and the President and Secretary of this Company are directed at once to certify to the City Council of the City of Des Moines a copy of this Resolution of acceptance and when so done said Ordinance and this acceptance shall be and become a contract between the City of Des Moines and the Des Moines St. Louis Railroad Company as provided for in said ordinance.

The President and Secretary certified to the City Council of the City of Des Moines Iowa, The above resolution on the 23rd day of March 1881 as will appear from the certificate of W. D. Christy City Clerk, now on file in the office of the Company.

J. S. CLARKSON, President.

Attest: F. M. Hubbell, Secy.

266

#### **Defendants' Exhibit 174.**

#### **Des Moines & St. Louis Railroad Company.**

Directors' Meeting, May 10, 1881.

The Board met this day in regular session, all the members of the Board being present. The minutes of the previous meeting having been read the same were approved.

The President then called the attentions of the Board to the proposition of James F. How, Agent, to subscribe for the entire capital stock of this Company, except four shares and to locate, provide right of way and grounds for, construct, complete and reasonably equip this companies roads from Des Moines to Albia, which proposition is fully and at length set out in a proposed contract between said James F. How Agent and this Company which is in words & figures following to-wit:

This Agreement made this . . . . . day of February 1881 by and between the Des Moines & St. Louis Railroad Company, a corporation organized under and in accordance with the laws of the State of Iowa, party of the first part, and James F. How of St. Louis, State of Missouri, Agent, party of the second part, Witnesseth

Whereas J. S. Polk, J. S. Clarkson, F. M. Hubbell and J. S. Rannels did on the 8<sup>th</sup> day of December 1880, enter into an agreement with the Wabash, St. Louis and Pacific Railway Company, to incorporate themselves under the laws of Iowa, as a railroad corporation, with a capital stock of Two Millions of Dollars, and authorized to construct a railroad

from Des Moines, Iowa, to Albia in said State, and in  
267 accordance with such agreement they have duly organized themselves into a corporation by the name and style of the Des Moines, St. Louis Railroad Company, with the powers, and for the purpose, contemplated in said agreement, which agreement in so far as the same may be applicable is hereby referred to and made a part hereof.

Now Therefore, the said second party, being the person designated under said agreement by this Wabash, St. Louis & Pacific Railway Company for the consideration hereinafter expressed, hereby agrees to subscribe to the entire capital stock of the first party with the exception of four shares, hereinafter provided, and agrees that he will with all reasonable dispatch, locate, provide right of way and grounds for, construct, complete, and reasonably equip the railroad aforesaid from Des Moines, Iowa, to a connection with the railroad of the Wabash, St. Louis and Pacific Railway Company at Albia, Iowa, all of which location and construction shall be done to the approval of the said Wabash, St. Louis & Pacific Railway Company.

All expenses of survey and other expenses, made by said first party, up to the date of this contract, and all contracts for ties entered into by it are hereby assumed by the second party.

And the second party further agrees in accordance with said agreement of December 8 to pay to said J. S. Polk, J. S. Clarkson, F. M. Hubbell and J. S. Runnells, as compensation for  
268 their services as officers and agents of the said first party, and in procuring subsidies and other aid from the execution of said contract of December 8th to the time of the completion of said railroad the sum of Ten Thousand Dollars in money, and the further sum of Five per cent of the amount of all of said subsidies, which shall be actually paid, and Five per cent of the value of all lands, donated for right of way or station purposes, and Five per cent of the value of all other aid to the construction of the railroad of said first party, which may be expressly accepted by the second party.

In the event that more ground is donated in consideration of the location of a station at any point, than is required upon a liberal construction for those purposes, the surplus shall belong absolutely to the said J. S. Polk, J. S. Clarkson, F. M. Hubbell and J. S. Runnells.

The value of the property donated for right of way shall be estimated at Four Hundred Dollars per mile;

The said sum of Ten Thousand Dollars shall be paid on the completion of the first five miles of said railroad and the commission of Five per cent on the completion of said railroad.

It is expressly understood that the expenses of the parties above named as officers and directors of the said first party hereto, and while personally engaged in procuring subsidies or right of way, and their office and clerical expenses, and the legal expenses of said first party, for condemnation and other proceedings, shall be defrayed from funds of said first party and not at their personal cost, and shall be deducted from the amt. due the second party under this contract.

In consideration of said agreements by the second party hereto, and in payment for such location, right of way construction and equipment of said railroad, the first party agrees to issue to the second party the entire amount of its capital stock, with the exception of four shares by him subscribed as above, and in addition thereto to deliver to him for each mile of said railroad Fifteen Thousand Dollars in bonds of the Wabash, St. Louis & Pacific Railway Company of the issue secured by its General Mortgage, and further secured by special mortgages on the railroad and equipments of the said first party, and all appurtenances thereto.

As fast as each section of five miles of said railroad is completed there shall be issued to said second party the entire amount of Fifteen Thousand Dollars per mile of said bonds and One Hundred and Twenty-Five Thousand Dollars of said Capital Stock, the remainder of said Capital Stock to be issued and delivered when this contract of subscription is completely performed by said second party.

In addition to the payment above set forth, the first party shall transfer to the second party all sums of money or all monied obligations which said first party may receive in consideration of the construction of said railroad from persons or private and municipal corporations not reserved by said agreement of Dec. 8<sup>th</sup> aforesaid to said Polk, Clarkson, Hubbell and Rannels, and so much of the Capital Stock of the first party as the laws of Iowa may require said first party to transfer to persons or corporations, in consideration of such local aid, shall be by it so transferred and deducted from the amount of said Capital Stock otherwise, payable to the said second party.

In Witness Whereof, the parties have this 18<sup>th</sup> day February 1881 signed the same and the party of the first part has caused its corporate seal to be affixed thereto.

Agent

(Seal)

DES MOINES & ST. LOUIS RAILROAD CO.

Attest

By ..... Prest.

Secy.

After due consideration of such proposed contract it was on motion of John S. Runnells unanimously approved and adopted and the President and Secretary were directed to execute the same on the part of the Company and notify said How thereof and request him to proceed with the execution of the same.

There being no other business before the Board it adjourned until June 14<sup>th</sup> 1881 the date of the regular meeting.

Attest

F. M. Hubbell,

Secy.

J. S. CLARKSON,

Prest.

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#### **Defendants' Exhibit 175.**

#### **Des Moines & St. Louis Railroad Company.**

Board Meeting, January 27<sup>th</sup> 1882.

The Board met this day pursuant to adjournment all the members of the Board being present the minutes of the preceding meeting being read the same were approved and signed.

The question of executing a mortgage on the railroad & property to the Central Trust Co. and a lease thereon to the Wabash, St. Louis and Pacific Railway Company having been duly considered by the Board it was en motion of J. S. Polk unanimously

Resolved, That Whereas, it has been mutually agreed by and between the said Des Moines and St. Louis Railroad Company, the subscribers to its capital stock and the Wabash, St. Louis & Pacific Railway Co. that bonds of the last named Co. secured by its general mortgage shall be executed and delivered to the said Des Moines & St. Louis Railroad Company, to be used in part payment for construction and equipment of the railroad of the said Company and also that the Des Moines & St. Louis Railroad Company shall execute and deliver to said Wabash, St. Louis and Pacific Railway Company a lease in perpetuity of said railroad, and that said

Wabash, St. Louis & Pacific Railway Company shall thereafter operate said railroad continuously under said lease and upon the conditions and agreements to be covenanted therein, providing for the operation and maintenance of said railroad, the payment of all taxes and assessments thereon  
 272 and protection by the said Wabash, St. Louis & Pacific Railway Company of the interest on the mortgage bonds aforesaid, and any further payment which due proportion of the earnings of said railroad may hereafter render just, the bonds aforementioned to form the principal consideration of said lease, also that the general mortgage bonds of the Wabash, St. Louis & Pacific Railway Company shall be secured by a first mortgage upon the railroad property of the said Des Moines & St. Louis Railroad Company to the extent of the par value of so many of said bonds as shall be issued in part payment for construction and equipment of the railroad of the last named Company,

Now therefore, Resolved, That the President and Secretary be and they are hereby directed to execute under the corporate seal and for and in behalf of this Company two certain Indentures of which the following are copies:

(Here follow copies of the trust deed, plaintiff's exhibit No. 38, and of the lease, plaintiff's exhibit No. 40 in stipulation filed March 23, 1911.)

Resolved, That a special meeting of the stockholders of the Company be called for the 4th day of March 1882, at the office of the Company in Des Moines, Iowa, for the purposes of submitting to a vote of said stockholders the question of adopting the aforesaid Indentures.

Resolved, That the Secretary be directed to cause a notice of the time, place and object of said meeting to be published for four consecutive weeks prior to the time fixed for said meeting in a newspaper published in Polk County in  
 273 the State of Iowa.

And there being no further business before the Board it on motion of John S. Runnells adjourned until February 8<sup>th</sup> 1882 to consider the propriety of entering into a contract for terminal facilities in Des Moines, Ia., with the Des Moines Northwestern Railway Company and others.

Attest

F. M. Hubbell  
 Secy.

J. S. CLARKSON  
 Prest.

**Defendants' Exhibit 176.****Des Moines & St. Louis Railroad Company.**Board meeting, April 11<sup>th</sup> 1882.

The Board met this day in regular session a quorum being present the minutes of the last meeting were read and approved.

On motion of John S. Runnells a contract between this Company and the Chicago Rock Island & Pacific Railway Company for right of way &c over the Chicago Rock Island and Pacific Railway right of way in Des Moines Ia. which is in words following, to-wit:

**Agreement.**

This agreement entered into this ..... day of November 1881 between the Chicago Rock Island and Pacific Railway Co. and the Des Moines and St. Louis Railroad Co.

Witnesseth That the said Rock Island and Pacific Railway Company in consideration of the premises hereinafter mentioned hereby grants unto the said Des Moines and St. Louis Railroad Company the right to contract and operate a railway track or tracks upon so much of the right of way or property of said C. R. I. & P. Ry. Co. as is described as follows, to-wit:

Commencing at a point on the north line of the right of way of said C. R. I. & P. Ry. Co. which point is four hundred and seventy two feet (472) south  $87^{\circ} 30'$  west from a stone at the intersection of the center lines of Mulberry and West fifteenth streets in the city of Des Moines, Ia. thence North  $70^{\circ} 30'$  west along and on the North line of said right of way four  
275 hundred feet (400) thence in a southeasterly direction to a point that shall be fifteen (15) feet south of said first line and thence in a northeasterly direction to the place of beginning, said point 15 feet south of said north line to be the outer point of the arc of a curve that may be drawn between said eastermost and westermost points.

This grant is upon the express condition which the said Des Moines & St. Louis Railroad Co. concedes that the said C. R. I. & P. Ry. Co. may when it shall so desire for the purpose of reaching points north of said railway of said Des Moines & St. Louis R. R. Co. construct and operate a track or tracks across the track or tracks and right of way of said last named company between 11th street in West Des Moines and the Bluffs west thereof. This agreement being the sufficient authority thereof.

## THE DES MOINES UNION RY. CO., ET AL.

It is further agreed between said companies that whereas the said D. M. & St. L. R. R. Co. has for temporary convenience laid its track upon certain portions of the right of way of said C. R. I. & P. Ry. Co., lying west of the premises above described now in pursuance of the agreement and understanding heretofore had between said Companies, it is hereby declared that the said occupation of said premises is temporary only, and said D. M. & St. L. R. R. Co. agrees that as soon as by diligence it can and not later than June 1<sup>st</sup> 1883 at which time said right shall terminate, it will remove its track from said right of way and in the meanwhile hold said C. R. I. & P. Ry. Co. free and harmless from all in-

276 jury that may result therefrom.

It is further agreed between said companies that whereas for the convenience of said D. M. & St. L. R. R. Co. and at its request the said C. R. I. & P. Ry. Co. has constructed a track from its line to that of said D. M. & St. L. R. R. Co. which line runs in part on the north line of Vine streets between tenth and eleventh streets in West Des Moines Polk Co. Iowa, and adjacent to the lots abutting on the north side of said Vine street and is maintaining said track.

Now in consideration of the premises the said D. M. & St. L. R. R. Co. agrees with the said C. R. I. & P. Ry. Co. that it will pay all costs and damages that may accrue to adjacent property holders on said Vine street between said 10<sup>th</sup> and 11<sup>th</sup> streets by reason of the construction operation and maintenance of said track including any and all costs of erecting and maintaining walls or other protections to said abutting property, and any and all damages that may result from the construction and maintenance and operation of said track to any person except such as may be injured on the track of said railway and said D. M. & St. L. R. R. Co. hereby waives any claim for damages that it might make as abutting property holders for laying down any tracks by said C. R. I. & P. Ry. Co. on Vine street west of Tenth Street.

In Witness Whereof the parties hereto have caused these presents to be signed in their corporate names by them and attested to by their Secretaries and their official seals

277 to be attached.

THE DES MOINES & ST. LOUIS R. R. CO.

By ..... Prest.  
Secy

CHICAGO ROCK ISLAND & PACIFIC CO.

By ..... Prest.  
Asst Sec'y

The within contract is hereby ratified and approved this 8<sup>th</sup> day of May 1882.

**THE ST. LOUIS DES MOINES & NORTH-  
ERN RY. CO.**

By ..... Prest.  
Secretary.

**THE DES MOINES NORTHWESTERN  
RAILWAY CO.**

By ..... Prest.  
Secretary.

Was approved and adopted and the President & Secretary of this Company are directed to execute the same on behalf of this Company.

And there being no other business the Board adjourned until the 13<sup>th</sup> day of April 1882 for the purpose of considering the demand of James F. How Agent for the issuance of the Capital Stock of this Company on the completed portion of the road.

Attest

F. M. Hubbell  
Secy

J. S. CLARKSON  
Prest

### **Defendants' Exhibit 177.**

**Des Moines & St. Louis Railroad Company.**

Board meeting, April 13<sup>th</sup> 1882.

Board met pursuant to adjournment.

A quorum being present the minutes of the preceeding meeting were read and approved.

The President presented a demand of Jas. F. How Agent for the issuance to him of the stock due him under his contract with this Company of date 18th Feby 1881 which demand was accompanied by the certificate of N. R. Gibson Chief Engineer of this Company showing the said How had constructed 40.681 miles of road for this Company and upon consideration thereof it was

Resolved that the President and Secretary of this Company be and they are hereby directed to issue to said James F. How Agent the full paid Capital Stock of this Company amounting to the sum of one million dollars in part compliance with said contract between said How and this Company.

Whereupon the Board adjourned until May 9<sup>th</sup> 1882 the day of the regular meeting.

Attest

F. M. Hubbell

Secy

J. S. CLARKSON

Prest

279

**Defendants' Exhibit 178.**

**Des Moines & St. Louis Railroad Company.**

Stockholders meeting, January 4<sup>th</sup> 1883.

The stockholders met this day in regular session.

The minutes of the stockholders meeting for the year 1882 were read and also were the minutes of the proceedings of the Board for the past year and the acts of the Board as set out were duly ratified and approved and all contracts made and acts done by the officers of the Company were ratified and approved and the President reported the completion of the road from Des Moines to Albia and that through trains were running thereon.

J. S. Polk moved that the road be accepted by this company as completed from Des Moines to Albia and that the Directors shall at once take steps to settle with James F. How Agent for the building of the same and shall cause to be issued to him the balance of the capital stock of this Company so subscribed for by him and paid for by building said road.

Which motion after being fully considered was unanimously adopted.

On motion of John S. Runnells the meeting proceeded to the election of a Board of Directors for the ensuing year, and it appearing that J. S. Clarkson, John S. Runnells, J. S. Polk and F. M. Hubbell received all the votes cast at such election, they were declared unanimously elected Directors for the ensuing year.

There being no other business before the meeting it adjourned.

280

J. S. CLARKSON, Prest.

Attest: F. M. Hubbell, Secy.

**Defendants' Exhibit 179.****Des Moines & St. Louis Railroad Company.**

Board meeting, January 9<sup>th</sup> 1883.

The newly elected Board of Directors met this day and on motion of J. S. Runnells it was

Resolved that this Board proceed to organize and elect officers for the ensuing year.

Thereupon J. S. Clarkson was elected President, John S. Runnells was elected Vice President of the Company, F. M. Hubbell was elected Secretary of the Company and J. S. Polk was elected Treasurer of the Company for the ensuing year and until their successors are elected and qualified.

On motion of J. S. Polk it was

Resolved that the President and Secretary of this Company proceed to settle with James F. How Agent for building and equipping this companies road from Des Moines to Albia and that they issue to said James F. How Agent the full amount of Capital Stock of this Company due him under his contract with this Company of date February 18<sup>th</sup> 1881.

The minutes of this meeting of this Board for the months of October, November and December 1882 were then read and approved and signed and there being no other business before the Board it adjourned until the regular monthly meeting in February 1883.

J. S. CLARKSON, Prest.

Attest: F. M. Hubbell, Secy.

**Defendants' Exhibit 180.****Des Moines & St. Louis Railroad Company.**

Directors meeting, January 3<sup>rd</sup> 1884.

The Board met this day at the office of the company on call of the President. All the members of the Board being present. The minutes of the preceding meeting were read and approved.

Thereupon John S. Runnells moved that Article IV of the Articles of Incorporation of this Company be amended by striking out of the first Section thereof the word "four" and inserting therein the word "nine" so that said section of said Article 4 shall read as follows to-wit:—

"The affairs of the company shall be managed by a board of nine directors who shall be elected annually by the stockholders on the first Thursday in January except as hereinafter provided each share having one vote."

The President thereupon submitted such resolution to the vote of the Board, and all the members of the Board to-wit:—

J. S. Clarkson, J. S. Polk, J. S. Runnells & F. M. Hubbell being present, and voting therefor it was declared carried by the unanimous vote of the Board of Directors.

On motion the Secretary of this Company was directed to cause this amendment to be duly recorded and a notice thereof published as provided by law.

There being no other business before the Board it adjourned.

J. S. CLARKSON, Prest.

F. M. Hubbell, Secy.

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### Defendants' Exhibit 181.

#### Des Moines & St. Louis Railroad Company.

Stockholders meeting, January 3, 1884.

The stockholders of this company met this day in regular session all the stock of the company being present and represented in the persons of the stockholders or by proxy.

Mr. Clarkson by power of attorney representing the Wabash St. Louis & Pacific Railway Company, the largest stockholder of the Company which is as follows to-wit:—

"Know all men by these Presents that the undersigned have made, constituted and appointed and by these presents do make, constitute and appoint J. S. Clarkson its true and lawful attorney in fact for it and in its name to appear as its representative at the annual meeting of the stockholders of the Des Moines & St. Louis Ry. to be held at Des Moines Iowa on January 3<sup>rd</sup> 1884, and there to vote in its name for Directors of said Company to serve for the year beginning on . . . . . and to vote in favor of increasing the number of Directors to nine.

In Witness Whereof I have hereunto set my hand and seal this 19<sup>th</sup> day of December 1883.

THE WABASH, ST. LOUIS &  
PACIFIC RY. CO.,

By James F. How, Secy."

The President in the chair. The meeting was called to order and the minutes of the stockholders meeting of January 4<sup>th</sup> 1883 were read and approved, and the action of the stockholders as therein set out was fully ratified and confirmed.

284 The stockholders then called for the reading of the minutes of the proceedings of the Board for the preceding year which was done and on motion of J. S. Runnells the action of the Board and officers of the Company was fully ratified and approved.

The President then called the attention of the stockholders to the action of the Board of Directors this day had for the purpose of amending Article IV of the Articles of Incorporation of this Company and after consideration of the same such action was on motion unanimously approved & ratified and the meeting then proceeded to the election of nine Directors of the Company as provided in such amended Article.

The President then presented a written request from James F. How Secy. of the Wabash St. Louis and Pacific Railway Company for the election of the following named persons as directors of the company for the ensuing year to wit Jay Gould, R. S. Hays, A. L. Hopkins, H. M. Hoxie, J. S. Polk, J. S. Clarkson, J. S. Runnells, F. M. Hubbell and Jas. F. How.

Whereupon J. S. Runnells put said several gentlemen in nomination for directors of this company and they have received the unanimous vote of all the stock represented were declared elected directors for the ensuing year.

There being no other business before the meeting it adjourned.

F. M. Hubbell,  
Secy.

J. S. CLARKSON,  
Pres.

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### Defendants' Exhibit 182.

#### Des Moines & St. Louis Railroad Company.

Stockholders meeting January 6th, 1887.

The stockholders met this day in regular session at the office of the company at Des Moines Iowa for the election of Directors and the transaction of other business pursuant to the Articles of Incorporation.

The meeting having been called to order by John S. Runnells Chairman it was ascertained that there was present & represented 9998 shares of the stock of the company. J. S. Polk by power of Attorney representing the stock of this company

standing in the name of the Mercantile Trust Company to-wit:—9996 shares, which power of attorney is as follows,

"Know all Men by these Presents:—That the Mercantile Trust Co., the undersigned Stockholder in the Des Moines & St. Louis Ry., do hereby constitute and appoint F. M. Hubbell of.....true and lawful attorney with power of substitution for it and in its name to vote at a meeting of the stockholders in said company for the election of Directors due notice of which has been given to be held at Des Moines Ia., on the 6th day of January A. D. 1887, or at any adjournment thereof on all matters which may properly come before it with all powers it shall possess if personally present.

In Testimony Whereof,....have hereunto set....hand and... seal....this 11th day of December 1886.

Witness: THE MERCANTILE TRUST CO.  
J. C. Otteson, John Montgomery, V. P.

286 (Endorsed on the back of the above power of attorney is the following substitution):

"I authorize J. S. Polk to act for me in pursuance of the power & authority conferred on me by the within power of attorney. F. M. Hubbell."

And John S. Runnells and J. S. Polk each were present, and represented one share of the Capital Stock of the Company.

The minutes of the last annual meeting were then read and approved, and ordered to be signed. On motion the minutes of the meeting of the Board of Directors held August 3rd, 1886, were read and after due consideration of the same by the stockholders, the action of the Board therein set out, was duly ratified and approved.

Thereupon J. S. Polk presented a communication from James F. How, General Agent, which is as follows to-wit:

St. Louis, Mo. Dec. 31st 1886.

F. M. Hubbell, Esq.  
Secretary.

Dear Sir:—I enclose you herewith proxie to vote the stock in the Des Moines & St. Louis R. R. standing in the name of the Mercantile Trust Co. at the annual election of Directors to be held on Jany. 6th, 1887. I send this proxie with the understanding that you vote the same for the following parties as directors: J. F. How, A. L. Hopkins, J. S. Clarkson, W. H. Blodgett, D. S. H. Smith, J. S. Runnells, A. A. Talmage, J. S. Polk & F. M. Hubbell.

287 Please send me a copy of the minutes of the meeting.

Yours truly

JAMES F. HOW, Gen'l Agent."

And moved that the meeting proceed to the election of a Board of Directors for the ensuing year which motion was unanimously adopted, and he then nominated for such Board of Directors, :—J. F. How, A. L. Hopkins, J. S. Clarkson, W. H. Blodgett, D. S. H. Smith, J. S. Runnells, A. A. Talmage, J. S. Polk, and F. M. Hubbell.

A ballot was thereupon taken for the election of a Board of Directors and the several persons above nominated having each received the unanimous vote cast at such election were declared elected as Directors of the Company for the ensuing year.

It appearing that a quorum of the newly elected board were not present and such quorum could not be presently had it was on motion resolved that the present officers of the company continue to act as such until the new board should meet and organize by the election of officers.

On motion J. S. Polk was directed to appear at the annual meeting of the Des Moines Union Railway Company and nominate on behalf of this company the following named gentlemen to-wit, J. F. How, A. L. Hopkins, A. A. Talmage and J. S. Runnells to be voted for as Directors of said last named Company for the ensuing year.

There being no other business before the meeting it adjourned.

F. M. Hubbell, Secy.

### **Des Moines & St. Louis Railroad Company.**

St. Louis, Mo., May 23, 1889.

Minutes of the meeting of the Board of Directors of the Des Moines & St. Louis Railroad Company.

Said meeting convened at the hour of eleven A. M. in room number 708 Commercial Building St. Louis, Mo.

There were present the following Directors of said Company:

Wells H. Blodgett, James F. How, Charles M. Hays, H. S. Priest and George S. Grover.

On motion of James F. How, Wells H. Blodgett was elected chairman of the meeting.

On motion of Charles M. Hays, George S. Grover was elected Secretary of the meeting.

On motion of Charles M. Hays, James F. How was elected President of the company for the ensuing year.

On motion of James F. How, Charles M. Hays was elected Vice President of the company for the ensuing year.

On motion of Charles M. Hays, F. M. Hubbell of Des Moines Iowa was elected Secretary and Treasurer of the company for the ensuing year.

On motion of H. S. Priest, the agreement between the Des Moines Union Railway Company and the Des Moines & St. Louis Railroad Company and the Des Moines & North Western Railway Company, and the St. Louis Des Moines & Northern Railway Company dated May 10<sup>th</sup> 1889 was approved, and the President & Secretary were authorized and directed to  
293 execute the same, and attach the seal of the company thereto; which contract is in words and figures following to-wit:

(Here follows a copy of the agreements of May 10, 1889, identified as plaintiff's exhibit No. 27 in Complainant's evidence.)

On motion the meeting adjourned.

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### **Defendants' Exhibit 184.**

#### **Des Moines & St. Louis Railroad Company.**

Meeting of the Directors of the Des Moines & St. Louis Railroad Company.

Des Moines Iowa January 3rd 1890.

At a meeting of the Directors of the Des Moines & St. Louis Railroad Company held at the office of the Company at Des Moines Iowa, on this date, there were present the following Directors:

C. M. Hays  
F. M. Hubbell  
and J. F. How.

A. B. Cummins  
J. S. Polk

The first business before the meeting being the election of officers of the company for the ensuing year.

Mr. A. B. Cummins placed in nomination

James F. How for President  
 C. M. Hays for Vice President  
 and F. M. Hubbell for Secretary & Treasurer.

A ballot being taken it was found that the persons placed in nomination had received the votes of all the Directors present and they were accordingly declared elected to hold their offices during the ensuing year or until their successors are duly elected and qualified.

Mr. A. B. Cummins offered the following resolution:

Resolved, That the Secretary of this company be directed to certify to the Des Moines Union Railway Company the nomination of the following named persons to be voted for  
 297 as Directors at the annual meeting of 1890 of the Des Moines Union Railway Company: J. F. How, C. M. Hays, W. H. Blodgett and A. B. Cummins.

The resolution was unanimously adopted.

Upon motion of A. B. Cummins their being no further business before the meeting the same was declared adjourned.

F. M. HUBBELL,  
 Secretary.

298

### Defendants' Exhibit 185.

#### Des Moines & St. Louis Railroad Company.

Meeting of the Directors of the Des Moines & St. Louis Railroad Company.

Des Moines Iowa, April 8th 1890.

The Directors of the Des Moines & St. Louis Railroad Company met in regular monthly meeting.

Present: James F. How, C. M. Hays, A. B. Cummins, F. M. Hubbell, H. S. Priest and George S. Grover.

Jas. F. How, presiding.

C. M. Hays offered the following resolution and moved its adoption:

Whereas, the purchasing committee of the Wabash St. Louis & Pacific Railway Company has sold to F. M. Hubbell one eighth and to G. M. Dodge one eighth of the stock of the Des Moines Union Railway Company and

Whereas the entire capital stock of said company owned by the company, issued as a part of the purchase price thereof has been fixed at Four hundred thousand dollars.

It is therefore now

Resolved, that the said sale by the said Purchasing Committee be and the same is hereby ratified, confirmed and approved by the Des Moines & St. Louis Railroad Company.

Said Resolution was adopted by the unanimous vote of all the Directors present.

C. M. Hays offered the following Preamble & Resolution and moved its adoption.

Whereas, on or about the first day of December 1881 the  
299 Des Moines and St. Louis Railroad Company, a corporation organized under the laws of the State of Iowa, mortgaged and conveyed to the Central Trust Company of New York and James Cheney, trustees, all the right of way and railroad of said Des Moines & St. Louis Railroad Company, extending from the eastern boundary line of the city of Des Moines in the State of Iowa to Albia in said State, running through the counties of Polk, Marion & Monroe, together with all its real estate, embankments, bridges, turnouts, side tracks, buildings and structures, water tanks and fixtures, shop, engine and other houses, depots, turntables, engines, cars, machinery, tools and all its railroad property acquired and to be acquired and everything appurtenant to said railroad, or used in connection therewith together with all rents, issues and profits, tools and earnings, credits and choses in action accruing to said Des Moines & St. Louis Railroad Company from said railroad as owner and holder thereof except the real estate, buildings and improvements lying and being within the corporate limits of the city of Des Moines, and

Whereas, said mortgage or conveyance was made to secure the holders of certain bonds of the Wabash, St. Louis & Pacific Railway Company dated on or about June 1, 1880, known as the "General Mortgage Bonds" of said company, which bonds were issued and delivered to said Des Moines & St. Louis Railroad Company at the rate of fifteen thousand dollars per mile of its railroad aforesaid to aid in the construction and equipment thereof, which bonds bear interest from date of  
300 issue at the rate of six per cent per annum payable semi-annually on the first days of June and December in each year; and

Whereas, no interest has been paid on said bonds since the first day of December 1883 and the principal of said bonds and all interest thereon from the date last aforesaid are now due and payable; and

Whereas, the principal and interest now due on said bonds largely exceed the value of said mortgaged railroad and property, and

Whereas, said bonds are all now owned and held by James F. Joy, Ossian D. Ashley, Thomas H. Hubbard, and Edgar T. Welles, as a purchasing committee of the Wabash, St. Louis & Pacific Railway Company, and

Whereas, they as the aforesaid owners and holders of said bonds have proposed to accept the title to said mortgaged railroad and property in satisfaction of the principal and interest of the bonds aforesaid. Now therefore in consideration of the premises it is

Resolved by the Directors of said Des Moines & St. Louis Railroad Company that the proposition of the holders of said bonds to accept the title to said mortgaged railroad and property in satisfaction of the principal and interest of the bonds secured thereon by the aforesaid deed of trust or mortgage be and the same is hereby accepted by the Directors of said Des Moines & St. Louis Railroad Company, and in consideration of the premises and of the sum of one dollar to them  
 301 paid, the President and Secretary of said Company are hereby authorized and directed to execute and deliver to said James F. Joy, Ossian D. Ashley, Thomas H. Hubbard and Edgar T. Welles under the corporate seal of said company a proper deed of conveyance granting, conveying and assigning unto said James F. Joy, Ossian D. Ashley, Thomas H. Hubbard and Edgar T. Welles all the right, title and interest of said Des Moines & St. Louis Railroad Company in and to its railroad and property aforesaid.

Said Preamble & Resolution was adopted by unanimous vote of all the Directors present.

Whereupon the Board adjourned.

F. M. HUBBELL, Secy.

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### **Defendants' Exhibit 186.**

#### **Des Moines & St. Louis Railroad Company.**

Des Moines Iowa, Febr'y. 11th, 1891.

#### **Stockholders Meeting.**

Pursuant to adjournment, the stockholders of the Des Moines & St. Louis Railroad Company met at the office of the Company at eleven o'clock A. M. There were present

## THE DES MOINES UNION RY. CO., ET AL.

C. M. Hays .....	Representing one share
Jas. F. How .....	" " "
F. M. Hubbell .....	" " "
A. B. Cummins .....	" " "
L. M. Martin .....	" " "

& the Purchasing Committee of the Wabash St. Louis & Pacific Railway Company, representing ninety nine hundred ninety six (9996) shares by Jas. F. How, who held a proxy therefor.

Jas. F. How, President, presiding.

The President stated the first business of the meeting to be the election of a board of directors for the ensuing year, to hold their office until their successors are elected and qualified

Upon a ballot being taken for the election of a board of nine directors, it appeared that the votes of all the stockholders present had been cast for the following Directors: Jas. F. How, A. B. Cummins, Geo. S. Grover, C. M. Hays, O. D. Ashley, W. H. Blodgett, H. S. Priest, L. M. Martin and F. M. Hubbell.

303 The gentlemen named having received the unanimous vote of all the stockholders present and represented, were declared duly elected Directors for the ensuing year, or until their successors are elected and qualified. On motion the meeting adjourned sine die.

F. M. HUBBELL, Secy.

304

### Defendants' Exhibit 187.

#### Des Moines & St. Louis Railroad Company.

Meeting of the Directors of the Des Moines & St. Louis Railroad Company.

Des Moines February 11th 1891.

At a meeting of the Directors of the Des Moines & St. Louis Railroad Company held at the office of the company at Des Moines Iowa, on this date, there were present the following directors:

C. M. Hays, F. M. Hubbell, Jas. F. How, A. B. Cummins and L. M. Martin.

The first business before the meeting being the election of officers of the company for the ensuing year.

Mr. Cummins placed in nomination:

Jas. F. How for President.

C. M. Hays for Vice President.

F. M. Hubbell for Secretary and Treasurer.

The ballot being taken it was found that the persons placed in nomination had received the votes of all the directors present and they were accordingly declared elected to hold their respective offices during the ensuing year or until their successors are duly elected and qualified.

C. M. Hays offered the following resolution and moved its adoption.

Whereas the Purchasing Committee of the Wabash St. Louis & Pacific Railway Company has sold to F. M. Hubbell one eighth of the stock of the Des Moines Union Railway Company amounting in par value to \$50,000.00,

It is therefore now

Resolved that the sale of said stock by the said Purchasing Committee to said F. M. Hubbell be and the same is hereby ratified, confirmed and approved by the Des Moines & St. Louis Railroad Company. Said stock after being transferred is represented by certificates numbers two (2) sixteen (16) seventeen (17) and eighteen (18).

Said resolution was adopted by the unanimous vote of all the directors present.

Thereupon the Board adjourned sine die.

F. M. HUBBELL,  
Secy.

306

### **Defendants' Exhibit 188.**

#### **Des Moines & St. Louis Railroad Company.**

Des Moines, Ia. Janry. 15, 1897.

Meeting of the Board of Directors of the Des Moines & St. Louis Railroad Company.

At a meeting of the Board of Directors of the Des Moines & St. Louis Railroad Company held at the office of the Company in the city of Des Moines, in the state of Iowa, on the 15th day of January, 1897, the following Directors were present:

F. M. Hubbell, A. B. Cummins, L. M. Martin, Geo. S. Grover, and Wells H. Blodgett.

Mr. Hubbell, the Secretary, stated that the meeting had been called in pursuance of the following written request signed by more than two Directors of the Company, to-wit:

"St. Louis Mo., Janry. 7, 1897."

To F. M. Hubbell Secy.

Des Moines & St. Louis R. R. Co, Des Moines, Iowa.

Dear Sir—You are hereby requested to call a meeting of the Board of Directors of the Des Moines & St. Louis Railroad Company, to be held at the office of the Company, at the city of Des Moines, in the State of Iowa, at 12 o'clock M. on Friday, January 15th, 1897, for the transaction of such business as may then be brought before the Board for its consideration.

Very respectfully yours.

L. M. MARTIN,  
WELLS H. BLODGETT,  
GEO. S. GROVER."

307 The death of James F. How President of the Company was reported, and Mr. C. M. Hays, the Vice President, being absent, Mr. A. B. Cummins was on motion of Mr. Blodgett, called to the chair.

The proceedings of the last meeting of the Board were then read by the Secretary and approved by the Board.

Mr. Blodgett then offered the following resolution and moved its adoption, to-wit:

"Resolved, that the Secretary of the Company be and he is hereby directed to call a meeting of the stockholders of the Company, to be held at its office in the City of Des Moines, in the State of Iowa, on Monday January 25th, 1897, for the purpose of electing a Board of Directors to serve for the period of one year from January 7th 1897, and until their successors are elected and qualified, and that the Secretary be directed, as far as practicable, to give written notice of said meeting to the several stockholders of the Company."

The motion of Mr. Blodgett was seconded by Mr. Martin.

The chairman stated the question to be upon the adoption of the resolution, and a vote being taken, the following Directors were present and voted in favor thereof, to-wit:

F. M. Hubbell, A. B. Cummins, L. M. Martin, George S. Grover and Wells H. Blodgett.

Whereupon the chairman declared the resolution offered by Mr. Blodgett, unanimously adopted.

Mr. Blodgett then offered the following resolution and  
308 moved its adoption:

"Resolved, That the terminal contract entered into between the Des Moines Union Railway Company and the Chicago Great Western Railway Company, bearing date July 2, 1896 (the same having been already approved by the Purchasing Committee of the Wabash Railroad Co.), be and the same is assented to and approved by the Des Moines & St. Louis Railroad Company and the President and Secretary authorized and directed to execute such assent and approval in writing, in form as follows, to-wit:

"This written assent, executed by the Des Moines & St. Louis Railroad Company, a corporation organized and existing under the laws of the State of Iowa, and the Purchasing Committee of the Wabash, St. Louis & Pacific Railway Company, a Committee organized by the bondholders of the last named railway company, and which has an interest in the railway known as the Des Moines & St. Louis Railroad, this 3rd day of December 1896, Witnesseth,"

That

Whereas there exists a contract between the Des Moines Union Railway Company, a corporation organized under the laws of the state of Iowa, and owning and operating certain terminal railway property in the city of Des Moines in said county and state, and the Des Moines & St. Louis Railroad Company, the Des Moines & Northwestern Railway Company, a corporation formerly owning a line of railway in the state of Iowa, and the St. Louis, Des Moines & Northern Railway Company, a corporation formerly owning a line of railroad in  
said State (the railway property formerly owned by  
309 said two last named companies being now the property  
of the Des Moines, Northern & Western Railroad Company), which said contract bears date on the 10th day of May, 1889; and

Whereas it is provided substantially in and by said agreement that upon the admission of any other railway company to the said terminal property the assent of each of the parties to the agreement so admitting the railway company to said property should be procured; and

Whereas the Chicago Great Western Railway Company although heretofore using the said terminal property under a contract originally entered into between the Des Moines Union Railway Company and the Chicago St. Paul & Kansas City Railway Company bearing date on the 2nd day of June 1890, has now entered into a new and different contract with the said Des

Moines Union Railway Company for the use of the said terminal property or some portion thereof, and

Whereas, the said new contract bearing date the 2nd day of July 1896, has been exhibited to the parties hereto and has met their approval and assent,

It is Now Therefore, in consideration of the premises, declared by the said Des Moines & St. Louis Railroad Company and the said Purchasing Committee that they do and each of them does assent to and approve the said contract so entered into between the said Des Moines Union Railway Company and the Chicago Great Western Railway Company, bearing date the 2nd day of July 1896.

In Witness Whereof we have hereunto set our names by  
310 due and proper authority the day and year first herein named.

O. D. Ashley	)	Purchasing
Thos. H. Hubbard	)	Committee, Trustees.
Edgar T. Welles	)	

The motion of Mr. Blodgett was seconded by Mr. Martin.

Thereupon the Chairman stated the question to be upon the resolution offered by Mr. Blodgett, and a vote being taken, the following Directors voted in the affirmative, to-wit—F. M. Hubbell, A. B. Cummins, L. M. Martin, George S. Grover and Wells H. Blodgett. Thereupon the chairman announced the resolution unanimously adopted.

On motion of Mr. Hubbell the meeting then adjourned.

F. M. HUBBELL,  
Secy.

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### Defendants' Exhibit 189.

**Des Moines & St. Louis Railroad Company.**

Des Moines, Iowa, Janry. 25, 1897.

Special Meeting of Stockholders of the Des Moines & St. Louis Railroad Company held at the Secretary's office in Des Moines, Iowa, Janry. 25th, 1897, in pursuance of a call made by the Board of Directors at a meeting held by said Board on January 15, 1897.

There were present and represented twenty thousand shares of stock as follows, viz:

F. M. Hubbell in person, holding	1 Share
----------------------------------	---------

The following shares were represent- )  
 ed by F. M. Hubbell by written proxies )  
 signed by the following Stockholders, )  
 viz. )

O. D. Ashley, as Trustee of the Pur. )	
Com. of Wabash St. Louis & Pacific )	9995 Shares
R. R. Co. )	

Purchasing Committee of the Wabash )	
St. Louis & Pacific R. R. Co. )	9996 Shares
O. D. Ashley	1 "
A. B. Cummins	1 "
J. C. Otteson	1 "
Wells H. Blodgett	1 "
H. S. Priest	1 "
George S. Grover	1 "
312 Edgar T. Welles	1 Shares
Jos. Ramsey, Jr.	1 "

Total

20,000 Shares.

The object of the meeting was stated to be the election of a Board of Directors for the ensuing year, to hold their officers until their successors are elected and qualified.

Upon the ballot being cast for the election of a Board of nine (9) Directors it appeared that the votes of all of the stockholders present and represented (being 20,000 votes) had been cast for the following Directors, to-wit: Thomas H. Hubbard, Edgar T. Welles, O. D. Ashley, J. C. Otteson, C. J. Lawrence, H. K. McHarg, W. H. Blodgett, Jos. Ramsey, Jr., and F. M. Hubbell. These gentlemen having received the unanimous vote of all of the stockholders present and represented, were declared duly elected Directors for the ensuing year, and until their successors are elected and qualified.

On motion the meeting adjourned sine die.

F. M. HUBBELL,  
 Secretary.

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**Defendants' Exhibit 190.**

**Des Moines & St. Louis Railroad Company.**

Meeting of the Board of Directors.

New York, Febr. 8, 1897.

A meeting of the Board of Directors of the Des Moines & St. Louis Railroad Co. was held February 8, 1897, at the office of The Wabash Railroad Co., #195 Broadway, New York.

Present, Messrs. O. D. Ashley, Thomas H. Hubbard, Edgar T. Welles, Cyrus J. Lawrence, Henry K. McHarg, and J. C. Otteson.

Upon Motion of Gen'l Hubbard, duly seconded, Mr. Ashley was appointed Chairman of the meeting and Mr. Otteson secretary thereof.

The Chairman stated to the meeting that a meeting of the stockholders of the Company had been held in Des Moines, Iowa, on January 25, 1897, and that the following gentlemen had been elected as Directors, viz:

Thomas H. Hubbard,  
Edgar T. Welles,  
O. D. Ashley,  
Cyrus J. Lawrence,  
Henry K. McHarg,  
John C. Otteson,  
Wells H. Blodgett,  
Joseph Ramsey, Jr.,  
F. M. Hubbell.

314 The Chairman also stated that the meeting of the Board was called for the purpose of electing officers for the ensuing year and to authorize, if the Directors were so inclined, the execution of the proposed new agreement between the Des Moines & St. Louis Railroad Co. and the Des Moines Union Railway Co. and its Tenant-Companies, which new agreement was necessary in view of the legal changes that had taken place with respect to some of the Tenant-Companies since the execution of the old agreement.

The following gentlemen were nominated for the offices set opposite their respective names; viz.,

For	President,	O. D. Ashley,
"	Secretary,	F. M. Hubbell,
"	Ass't "	J. C. Otteson,
"	Treasurer	F. L. O'Leary.

No other nominations having been made, the secretary of the meeting was instructed to cast the ballot for the Board present, and duly announced that the ballot had been cast for

O. D. Ashley,	for President;
F. M. Hubbell	" Secretary;
J. C. Otteson	" Asst. Secretary;
F. L. O'Leary	" Treasurer.

The gentlemen named were thereupon declared by the meeting elected to the offices following their respective names.

Upon Motion of Gen'l Hubbard, duly seconded,

Voted, That the President of this Company be, and he hereby is authorized to execute the new agreement between the Des Moines Union Railway Co. and the Tenant, or  
315 Proprietary Companies, substantially upon the terms and conditions of the one now in existence after the approval of the same by Col. Wells H. Blodgett, General Counsel of The Wabash Railroad Co.

Adjourned.

J. C. OTTESON, Asst. Secretary.

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#### **Defendants' Exhibit 191.**

#### **Des Moines & St. Louis Railroad Company.**

Stockholders' Meeting, Des Moines Ia., Feb. 3rd 1899.

The stockholders of the Des Moines and St. Louis Railroad Company, met this day pursuant to adjournment, at the Secretary's office in Des Moines, Iowa.

There were represented 20,000 shares of stock being all the shares of the corporation, as follows, viz:—

The following shares were represented by A. B. Cummins by written proxies, signed by the following stockholders, viz:—

O. D. Ashley.....	1 share.
O. D. Ashley, Sec. Wabash Purchasing Com....	19991 shares.
Thomas H. Hubbard.....	1 share.
C. J. Lawrence.....	1 share.
Henry McHarg .....	1 share.
J. C. Otteson.....	1 share.
Edgar T. Welles.....	1 share.

The following shares were represented by B. C. Winston, by written proxies signed by the following stockholders, viz:—

Joseph Ramsey, Jr.....	1 share.
Wells H. Blodgett.....	1 share.
F. M. Hubbell, was represented by written proxy to H. D. Thompson.....	1 share.
Total .....	20,000 shares.

The meeting having been called to order on motion, Mr. A. B. Cummins was elected chairman of the meeting, and  
 317 B. C. Winston Sec. The minutes of the stockholders' meeting of January 25th 1897, were read and approved.

On motion of Mr. H. D. Thompson the meeting proceeded to the election of a Board of Directors for the ensuing year, and upon the ballot being cast, it appeared that 20,000 shares of stock had been cast in favor of

Thomas H. Hubbard,  
 Edgar T. Welles,  
 O. D. Ashley,  
 J. C. Ottenson,  
 C. J. Lawrence,  
 H. K. McHarg,  
 W. H. Blodgett,  
 Joseph Ramsey, Jr.,  
 F. M. Hubbell,

and they were declared unanimously elected directors for the ensuing year.

On a motion of Mr. B. C. Winston the following resolution was submitted to the meeting for its consideration, to-wit:—

"Whereas, the Wabash Railroad Company is the legal or equitable owner of all the capital stock of this corporation, and

Whereas, It is considered to be for the best interests of this Company and its stockholders that its road and property should be owned and controlled by said Wabash Railroad Co., a consolidated corporation, existing under the laws of the States of Missouri, Illinois, Indiana, Ohio and Michigan;

318 Now therefore, in consideration of the premises, it is by the stockholders of this Company;

Resolved: That the Board of Directors, and President and Secretary, or other proper officers of this Company, be, and they are hereby authorized and empowered to execute in the name and behalf of this Company, and under its corporate

seal, a deed or deeds of conveyance for such consideration, and in such form as they may approve, or may be advised are appropriate and necessary to vest in and convey to said Wabash Railroad Company, all the railroad right of way, real estate, franchises and other property, real and personal, of every kind and wherever situated, that now does or may hereafter belong to the Des Moines and St. Louis Railroad Company, or in which it now has or may hereafter have any title, interest or estate."

Said resolution having been duly considered, was on motion of Mr. Winston adopted by the stockholders represented by proxy voting unanimously in favor thereof.

There being no other business before the meeting, it adjourned, subject to the call of the President upon five days notice to each stock holder.

B. C. WINSTON, *Secretary*.

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### **Defendants' Exhibit 192.**

#### **Des Moines & St. Louis Railroad Company.**

*Meeting of the Board of Directors.*

*New York, March 16, 1899.*

A special meeting of the Directors of the Des Moines & St. Louis Railroad Co. was held this day at the office of The Wabash Railroad Co., No. 195 Broadway, New York, pursuant to call setting forth the object of the meeting.

*Present:* Messrs. O. D. Ashley, Edgar T. Welles, Cyrus J. Lawrence, Thomas H. Hubbard, and J. C. Ottewson.

*Upon Motion, duly seconded, Resolved,* that the present officers, viz.—

O. D. Ashley, President;

F. M. Hubbell, Secretary;

J. C. Ottewson, Assistant Secretary; and

F. L. O'Leary, Treasurer,

be and they hereby are, re-elected to the respective offices for the ensuing year and until their successors are chosen.

The minutes of the Directors' meeting held February 7, 1897, were read and approved.

*Upon Motion, duly seconded, Resolved,* That the word "stockholders" in the first line of the resolution passed by the

Board of Directors of the Des Moines & St. Louis Railroad Co. on April 8, 1890, and the word "stockholders" in the eighth line of said resolution, recorded on page 151 of these Records, be stricken out and the word "Directors" be substituted therefor in each case.

Upon Motion, duly seconded, the following preamble and resolution were adopted:

Whereas, On or about the 8th day of April, 1890, the Board of Directors adopted resolutions authorizing the proper officers of the Company to convey all its railroad and property to the Wabash Purchasing Committee; and,

Whereas, No conveyance has ever been made to said Committee in pursuance of the authority in said resolution contained;

Now, Therefore, Resolved, that said resolution of April 8, 1890, be, and the same is hereby, for all purposes repealed and rescinded;

2nd. Resolved. That the President and Assistant Secretary be, and they are hereby authorized to execute in the name of the Company and under its corporate seal a deed conveying all the railroad, franchises, real estate, and other real and personal property of the Company wheresoever situated to the Wabash Railroad Company. And such deed may be, in form, substantially as follows:

This Indenture made and entered into this first day of January A. D. One thousand eight hundred and ninety nine, between The Des Moines & St. Louis Railroad Company, a corporation of the State of Iowa, of the first part, and The Wabash Railroad Company, a consolidated railway corporation existing under the laws of the states of Missouri, Illinois, Indiana, Ohio and Michigan of the second part.

321 Witnesseth; That, Whereas, the Des Moines & St. Louis Railroad Company owns a line of railroad in the State of Iowa, extending from Des Moines in said State through the Counties of Polk, Marion and Monroe to the town or city of Albia in said Monroe County, where its said line of road connects with the tracks of the Wabash Railroad; and,

Whereas, The Wabash Railroad Company owns and operates a line of railroad extending from St. Louis in the State of Missouri by way of Moberly and Glenwood Junction in said State, to Moulton in the County of Appanoose in the State of Iowa, and from thence to Ottumwa in the State last aforesaid;

Whereas, The Wabash Railroad Company is engaged in the construction of a line of railroad from Moulton aforesaid, to the town or City of Albia in said County of Monroe, where its said line connects with the road and tracks of what is known as the Des Moines & St. Louis Railroad; and,

Whereas, The stockholders of the Des Moines & St. Louis Railroad Company have, by their unanimous vote, authorized and directed the proper officers of said Company to sell, assign, and set over unto said Wabash Railroad Company all its railroad, right of way, rolling stock, leasehold interests and other property.

Now, Therefore, Know all Men by These Presents, That for and in consideration of the premises, and of the sum of One Dollar paid to the Des Moines & St. Louis Railroad Company, the receipt whereof is hereby acknowledged, the Des Moines &

322 St. Louis Railroad Company has granted, bargained, sold, assigned and set over, and by these presents it does grant, bargain, sell, assign and set over unto the Wabash Railroad Company, its successors and assigns forever, all of its said line of railroad and right of way as the same now is or may be hereafter constructed, or acquired in said State of Iowa, commencing at a point in or near the City of Des Moines, where said road connects with the tracks of the Des Moines Union Railway Company, and extending from thence in a southeasterly direction through the Counties of Polk, Marion and Monroe to the town or City of Albia in Monroe County, a distance of about sixty-seven miles, together with all the real estate and embankments, bridges, turn-outs, side-tracks, yards, structures, water tanks, shops, engine houses, depots, turntables, engines, cars and other rolling stock, machinery, tools, lots, lands, buildings, offices, furniture and all its rights privileges and franchises and all other things, real and personal, now owned, or used or that may be hereafter owned or used by the party of the first part in connection with the line of railroad above described and herein and hereby granted, and especially including all the rights and leasehold and other interests of the first party under a contract dated May 10, 1889, between the Des Moines Union Railway Company of the first part and the Des Moines & St. Louis Railroad Company, the Des Moines and Northwestern Railway Company, and the St. Louis, Des Moines and Northern Railway Company, of the second part.

To Have and to Hold All and singular the above granted and described property with all its appurtenances and  
323 the revenues, rents, issues and profits thereof, unto said Wabash Railroad Company, its successors and assigns, forever.

In Testimony Whereof the Des Moines & St. Louis Railroad Company has caused these presents to be signed in its name by its President and attested by its corporate seal the day and year first above written.

Adjourned.

J. C. OTTESON,  
Assistant Secretary.

**Defendants' Exhibit 193.**

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Deed From D. M. & St. L. R. R. Co. to The Wabash R. R. Co. Filed March 24, 1899. Dated January 1, 1899. Book 295, Page 409.

Des Moines & St. Louis R. R. Co.,	}	Deed.
to		
The Wabash Railroad Co.		

This Indenture made and entered into this first day of January A. D. One thousand eight hundred and ninety-nine, between The Des Moines & St. Louis Railroad Company, a corporation of the state of Iowa, of the first part, and The Wabash Railroad Company, a consolidated railway corporation, existing under the laws of the states of Missouri, Illinois, Indiana, Ohio, and Michigan, of the second part; Witnesseth: That

Whereas, The Des Moines & St. Louis Railroad Company owns a line of railroad in the state of Iowa extending from Des Moines in said state through the counties of Polk, Marion and Monroe to the town or city of Albia in said Monroe county, where its said line of road connects with the tracks of the Wabash Railroad; and,

Whereas, The Wabash Railroad Company owns and operates a line of railroad extending from St. Louis in the state of Missouri, by way of Moberly and Glenwood Junction in said state, to Moulton in the county of Appanoose in the  
325 state of Iowa, and from thence to Ottumwa in the state last aforesaid; and,

Whereas, The Wabash Railroad Company is engaged in the construction of a line of railroad from Moulton aforesaid to the town or city of Albia in said county of Monroe, where its said line connects with the road and tracks of what is known as the Des Moines & St. Louis Railroad; and,

Whereas, the stockholders of the Des Moines & St. Louis Railroad Company have, by their unanimous vote, authorized and directed the proper officers of said company to sell, as-

sign and set over unto said Wabash Railroad Company all its railroad, right of way, rolling stock, leasehold interests and other property;

Now, Therefore, Know All Men By These Presents: That for and in consideration of the premises and of the sum of One Dollar paid to the Des Moines & St. Louis Railroad Company, the receipt whereof is hereby acknowledged, the Des Moines & St. Louis Railroad Company has granted, bargained, sold, assigned and set over, and by these presents it does grant, bargain, sell, assign and set over unto the Wabash Railroad Company, its successors and assigns forever, all of its said line of railroad and right of way as the same now is, or may be hereafter constructed or acquired in said state of Iowa, commencing at a point in or near the city of Des Moines where said road connects with the tracks of the Des Moines Union Railway Company and extending from thence in a southeasterly direction through the counties of Polk, Marion and Monroe, to the town or city of Albia in Monroe county, a distance of about sixty-seven miles, together with all the real estate and

embankments, bridges, turn outs, side tracks, yards, structures, water tanks, shops, engine houses, depots, 326 turn tables, engines, cars, and other rolling stocks, machinery, tools, lots, lands, buildings, offices, furniture and all its rights, privileges and franchises, and all other things, real and personal, now owned or used or that may be hereafter owned or used by the party of the first part in connection with the line of railroad above described and herein and hereby granted, and especially including all the rights and leasehold and other interests of the first party under a contract dated May 10th, 1889, between the Des Moines Union Railway Company of the first part and the Des Moines and St. Louis Railroad Company, the Des Moines Northwestern Railway Company and the St. Louis, Des Moines and Northern Railway Company, of the second part.

To have and to hold all and singular the above granted and described property, with all its appurtenances and the revenues, rents, issues and profits thereof unto said Wabash Railroad Company, its successors and assigns forever.

In Testimony Whereof, the Des Moines & St. Louis Railroad Company has caused these presents to be signed in its name by its president and attested by its corporate seal, the day and year first above written.

(Seal)

DES MOINES & ST. LOUIS RAILROAD  
COMPANY,

By O. D. Ashley, President.

Attest:

J. C. Otteson,  
Assistant Secretary.

327 State of New York, }  
County of New York } ss.

Be It Remembered, that on this 16th day of March A. D. 1899, before me, the undersigned, a Notary Public within and for the county and state of New York, came O. D. Ashley, President of the Des Moines and St. Louis Railroad Company, who is personally known to me to be the identical person whose name is affixed to the within and foregoing instrument of writing as President of the said The Des Moines and St. Louis Railroad Company, and who acknowledged the same to be his voluntary act and deed as President of the said The Des Moines and St. Louis Railroad Company, party thereto; that the seal affixed to said instrument is the seal of said corporation; that said instrument was signed and sealed by him in behalf of said corporation by authority of its Board of Directors, and that he executed the same as its voluntary act and deed for the uses and purposes therein mentioned.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal this 16th day of March A. D. 1899.

(Seal)

H. L. UTTER,  
Notary Public Kings County.

Certificate filed in New York County.

328 State of New York, }  
County of New York } ss.

I, William Sohmer, clerk of the county of New York and also clerk of the supreme court for the said county, the same being a court of Record, Do Hereby Certify, That H. L. Utter has filed in the clerk's office of the county of New York, a certified copy of his appointment as Notary Public for the county of Kings, with his autograph signature, and was at the time of taking the proof of acknowledgment of the annexed instrument duly authorized to take the same, and further that I am well acquainted with the handwriting of such Notary and verily believe the signature to the said certificate or proof of acknowledgment to be genuine.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the said court and county the 18th day of March, 1899.

(Court Seal)

W. M. SOHMER,  
Clerk.

329 State of New York, }  
County of New York } ss.

Be It Remembered, that on this 18th day of March A. D. 1899, before me, the undersigned, a Notary Public within and for the county and state of New York, came O. D. Ashley, President of the Des Moines and St. Louis Railroad Company, who is personally known to me to be the identical person whose name is affixed to the within and foregoing instrument of writing as President of the said The Des Moines and St. Louis Railroad Company, and who acknowledged the same to be his voluntary act and deed as President of the said The Des Moines and St. Louis Railroad Company, party thereto; that the seal affixed to said instrument is the seal of said corporation; that said instrument was signed and sealed by him in behalf of said corporation by authority of its Board of Directors, and that he executed the same as its voluntary act and deed for the uses and purposes therein mentioned.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal 18th day of March, 1899.

(Seal)

B. R. HIGGINS,  
Notary Public New York County.

330 State of New York, }  
County of New York } ss.

I, William Sohmer, clerk of the county of New York, and also clerk of the supreme court for said county, the same being a court of Record, Do Hereby Certify, That B. R. Higgins, whose name is subscribed to the certificate or the proof of acknowledgment of the annexed instrument and thereto written, was at the time of taking such proof or acknowledgement a Notary Public in and for the county of New York, dwelling in the said county, commissioned and sworn and duly authorized to take the same. And further that I am well acquainted with the handwriting of said Notary and verily believe that the signature to the said certificate of proof or acknowledgement is genuine.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the said court and county the 18th day of March, 1899.

(Court Seal)

W. M. SOHMER,  
Clerk.

**Defendants' Exhibit 194.**

**Des Moines Northwestern Railway Company.**

Directors' Meeting, January 23, 1882

The Board met this day pursuant to adjournment. A quorum being present the minutes of the preceding meeting were read and approved.

John S. Runnells presented for the consideration of this meeting an agreement for the purchase from the St. Louis, Des Moines and Northern Railway Company of its road from Waukeet to Clive, and one-half of its road from Clive to Farnham street in Des Moines, Iowa; and also an agreement for the use of this joint road. A copy of which he presented and filed with the secretary, the same being dated January 3, 1882, and reported that the amount of consideration for the purchase was to be settled as soon as the cost of construction could be ascertained, and agreed on, the same being considered by this Board, it was on motion ratified and agreed to and the President and Secretary of this company are directed to execute the same on behalf of this Company.

On motion the Board adjourned until February 8, 1882, to take action with reference to a contract with the Des Moines and St. Louis, and the St. Louis, Des Moines and Northern and others for terminal facilities in Des Moines Iowa, and for such other business as may come before the Board.

J. S. POLK, Pres.

J. S. Runnells, Sec.

**Defendants' Exhibit 195.**

**Des Moines Northwestern Railway Company.**

Directors' Meeting, December 9, 1884.

The Board met this day in regular session. A quorum being present the meeting was called to order by the President and the minutes of the meetings of this Board for July, August, September, October and November being read, were approved and signed.

Thereupon John S. Runnells offered for the consideration of the Board the following resolution, to-wit:

Whereas heretofore to-wit on the 2<sup>nd</sup> day of January, 1882 the Des Moines & St. Louis Railroad Company, the Des Moines & North Western Railway Company, the St. Louis Des Moines & Northern Railway Company, G. M. Dodge, Jas.

F. How and Jas. F. How, trustee, entered into a contract whereby it was agreed to purchase and use certain real estate and franchises theretofore acquired by certain of said parties for terminal facilities in Des Moines, and

Whereas it is desirable that a corporation be organized for the purpose of taking and holding such property,

Now Therefore Be It Resolved: That J. S. Polk and F. M. Hubbell be and they are appointed to act for this company in the organization of such corporation, and they are selected to act as two of the directors of said proposed corporation, so to be organized, for the purpose of carrying out the objects of said contract of January 2<sup>d</sup>, 1882.

Said resolution, after being duly considered, was unanimously adopted.

There being no other business before the Board, it adjourned.

J. S. POLK, Prest.

J. S. Runnells, Secy.

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#### **Defendants' Exhibit 196.**

#### **Des Moines Northwestern Railway Company.**

Directors' Meeting, May 18, 1889.

An adjourned meeting on call of chairman of the Board of Directors of the Des Moines and North Western Railway Company was held May 18, 1889.

Board met pursuant to adjournment.

F. M. Hubbell, President, in the chair.

Present: The President, A. N. Denman, A. B. Cummins, F. C. Hubbell. 4.

Absent: L. M. Martin, H. D. Thompson, G. M. Dodge.

Voted: That the proposed contract dated May 10, 1889 which was offered and read by Mr. A. B. Cummins between the Des Moines Union Railway Company of the first part and the Des Moines & St. Louis Railroad Co., the Des Moines and Northwestern Railway Co. the Saint Louis Des Moines and Northern Railway Co. parties of the second part, relating to the use of terminal property in the city of Des Moines and the compensation therefor be approved and that the President and Secretary of this company be and are hereby authorized to at-

tach the seal and to execute the same in behalf of this Company.

Upon motion adjourned.

A. N. DENMAN, Sect'y.

### Defendants' Exhibit 197.

#### Des Moines and Northwestern Railway Company.

Stockholders' Meeting, January 2, 1890. 2 P. M.

Stockholders met pursuant to adjournment.

Present: F. M. Hubbell, representing .... shares  
 A. B. Cummins, " .... "  
 H. D. Thompson, " .... "  
 F. C. Hubbell, " .... "  
 A. N. Denman, " .... "

President F. M. Hubbell in the chair.

Voted: That we now proceed to the election of seven directors to hold office for one year or until their successors be chosen. A ballot having been taken all the votes were found cast for the following persons, who were thereupon declared elected directors for the ensuing year: F. M. Hubbell, G. M. Dodge, A. N. Denman, H. D. Thompson, Fred C. Hubbell, A. B. Cummins and L. M. Martin.

Upon motion it was unanimously Resolved:

That the stockholders of the Des Moines & N. W. Railway Co. hereby ratify and approve the execution of the mortgage to the Central Trust Company by the Des Moines Union Railway Company upon all its property and franchises to secure the issuance of \$800,000. of First Mortgage Bonds and do declare that this resolution shall have the same force and effect as though this authority had been executed prior to the execution of said mortgage.

336 The record of the last meeting of the stockholders was read, also the minutes of the directors' meetings during the past year. Said record and minutes and all the actions of the officers of the company for the past year was ratified, approved and confirmed.

A. N. DENMAN, Secretary.

### Defendants' Exhibit 198.

#### Des Moines and Northwestern Railway Company.

Directors' Meeting, October 23, 1890.

A meeting of the board of directors of the Des Moines & Northwestern Railway Company was held pursuant to adjournment October 23, 1890.

Present: Messrs. F. M. Hubbell, F. C. Hubbell, H. D. Thompson, A. N. Denman, L. M. Martin, A. B. Cummins.

President F. M. Hubbell in the chair.

(Preamble and resolution as follows:—)

The following Preamble and resolution was also adopted;

Whereas, this company is the owner of one hundred and fifteen bonds of the Des Moines Union Railway Company of One Thousand Dollars each commonly known as "Terminal Bonds" and

Whereas it has outstanding its own bonds secured by a mortgage upon its property and One Hundred & Twelve of said Terminal Bonds are under pledge to further secure the payment of the said bonds of the railway company, and

Whereas it now has an opportunity to take up twelve of its said mortgage bonds aggregating One Hundred & Twenty Thousand Dollars by transferring to the holder thereof the said Terminal Bonds, and the payment of Five Thousand Dollars in cash, and

Whereas it is for the best interest of the company to make such exchange of Bonds, Now, therefore, be it

Resolved: That the president be and he is hereby authorized to transfer said Terminal Bonds and make said payment and to turn into the Treasury of the Company the said twelve of its own mortgage bonds aggregating One Hundred & Twenty Thousand Dollars for such disposition as may hereafter be ordered.

On Motion the Board adjourned.

A. N. DENMAN, Secretary.

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### **Defendants' Exhibit 199.**

#### **Des Moines and Northwestern Railway Company.**

Stockholders' Meeting, October 12, 1891.

The stockholders of the Des Moines & Northwestern Railway Company having been duly convened in special meeting, and having been duly notified as provided by the Articles of Incorporation, the by laws, and the laws of the State of Iowa, met at the office of the company in Des Moines, Iowa pursuant to such notice.

The President, F. M. Hubbell presiding—There were present:

F. M. Hubbell, holding & representing	3250	shares
G. M. Dodge do	3500	"
F. M. Hubbell & Son, do	3249	"
A. B. Cummins do	1	"
F. C. Hubbell do	1	"
L. M. Martin do	1	"
H. D. Thompson do	1	"
A. N. Denman do	1	"

Total

10,004 shares

The above and foregoing are all the shares of the capital stock of the Des Moines & Northwestern Railway Co. issued or outstanding.

Whereupon the President announced and declared that all the stockholders of the company were present.

The President further announced that pursuant to the notice calling the meeting, the subject for consideration was the proposed consolidation union and merger of the Des Moines & Northwestern Railway Company & the Des Moines & Northern Railway Company as provided by the statutes of the State of Iowa.

Whereupon A. N. Denman offered a certain preamble and resolutions and moved their adoption, said preamble and resolutions are as follows, to-wit:

Whereas: The Des Moines & Northwestern Railway Company is the owner and engaged in the operation of a line of standard gauge railway extending from Farnham street in the city of Des Moines, Iowa, to Fonda, Iowa, and

Whereas: The Des Moines and Northern Railway Company is the owner of a line of standard gauge railway extending from said Farnham street to Boone, Iowa, and

Whereas, it was and is believed that the consolidation union and merger of the capital stocks and corporate and other franchises, rights, privileges and property of said railway companies into a consolidated corporation which will own and be possessed of all the corporate and other franchises, rights, privileges, immunities and property of each and both of said railway companies will secure greater economy and efficiency in the management and operation of said lines and thereby promote the interests of the public of said corporate parties and of all the shareholders and other parties in interest in each of them, and

Whereas, G. M. Dodge, Solon Humphreys and F. M. Hubbell who own and are the owners severally in various proportions of all the bonds and stock of said two railway corporations did on the first day of July, 1891, enter into a contract looking to said consolidation and merger, a copy of which is as follows, to-wit:

This Agreement entered into this first day of July, 1891, between G. M. Dodge and Solon Humphreys, hereinafter called the first parties, and F. M. Hubbell, hereinafter called the second party,

Witnesseth: That whereas the first parties are the owners of all the capital stock of the Des Moines and Northern Railway Company, which corporation owns and operates a line of railroad from Farnham street in the city of Des Moines, Iowa, to the city of Boone, Iowa, and

Whereas, the second party and said G. M. Dodge are the owners of all the capital stock of the Des Moines and North Western Railway Company, a corporation which owns and operates a line of railway from Farnham street in said city of Des Moines to Fonda, Iowa, and

Whereas, the said Des Moines and Northern Railway Company has issued its first mortgage bonds in the aggregate sum of Seven Hundred and Forty Thousand Dollars and has a small floating indebtedness and the said Des Moines and North Western Railway Company has issued its first mortgage bonds in the aggregate sum of Four Hundred and Fifty Thousand Dollars, and has a large floating indebtedness, and

Whereas, the first parties are the owners of all the said mortgage bonds so issued by the Des Moines and Northern Railway Company, and

Whereas, it is believed to be for the best interests of the parties hereto to unite the two railroad properties above mentioned;

Now, therefore, in consideration of the mutual covenants, promises and undertakings herein contained, it is agreed as follows, to-wit:

First: That parties mutually agree that they will cause legally called meetings of the stockholders of said respective companies to be held in Des Moines, Iowa on the first day of January, 1892, at which meetings such due and legal proceedings shall be taken as will consolidate the said railway properties, and merge said two railway corporations into a single railway corporation according and pursuant to the provisions

of Section twelve hundred and seventy-five (1275) of the Code of the state of Iowa.

Said consolidated corporation shall have an authorized capital stock of a sufficient amount so that it may legally issue its capital stock at the rate of Twenty-eight Thousand Dollars per mile of its completed standard gauge main track whether acquired by such consolidation or thereafter acquired or constructed and shall have the power among other powers to execute a trust mortgage securing the payment of the bonds herein provided to be issued by it.

Second: The second party agrees that on or before the first day of January, 1892, he will cause the gauge of the  
343 main and side tracks of the Des Moines & North Western Railway Company to be widened to a standard gauge, that is to say, to a gauge of four feet eight and one-half inches, and it is understood and agreed that between the station of Clive and the city of Jefferson, Iowa, the main track shall be laid with steel rails of at least the weight of fifty-two pounds per yard, and between Jefferson and Fonda the track shall be laid with the forty pound steel rail now in use and so much of the best thirty-five pound iron rail now in use as may be necessary to complete the track between said points.

Third: It is further agreed that by such consolidation the said consolidated Corporation hereinafter called the "Consolidated Company" shall become the owner of the entire line of railway now belonging to the Des Moines and Northern Railway Company, extending from Farnham street aforesaid to Boone aforesaid including its right of way, roadway, main tracks, side tracks, bridges, culverts, round houses, shops station houses, engines, cars, real estate and all property of whatsoever name, nature or description in fact belonging to the said Des Moines and Northern Railway Company, including about seventy acres of land at or near High Bridge, and about thirty acres at Boone and also including one-quarter of the capital stock of the Des Moines Union Railway Company which stock is now the property of the Des Moines and Northern Railway Company, and it is further agreed that the consideration to be paid and issued for and on account of the said  
344 property of the Des Moines and Northern Railway Company and for which all its bonds and stock are to be surrendered and cancelled shall be six hundred and fifty-five thousand dollars in the first mortgage bonds and one million ninety-two thousand dollars par value of the capital stock of the Consolidated Company.

Fourth: The parties further mutually agree that by such consolidation the Consolidated Company shall become the owner of the entire railway line of the said Des Moines & Northwestern Railway Company extending from Farnham street aforesaid to Fonda aforesaid, including its right of way, roadway, main tracks, side tracks, bridges, culverts, round houses, shops, station houses, engines, cars, real estate and all property of whatsoever name, nature or description in fact belonging to the said Des Moines & Northwestern Railway Company including one-fourth of the capital stock of the Des Moines Union Railway Company, which capital stock is now the property of the said Des Moines and Northwestern Railway Company, and it is further agreed that the consideration to be paid and issued for and on account of the said property of the Des Moines and Northwestern Railway Company for which all its bonds and stock are to be surrendered and cancelled shall be one million, six hundred thousand dollars in the first mortgage bonds and three million, one hundred and eight thousand dollars par value in the capital stock of the Consolidated Company.

345 Fifth: It is further mutually agreed that if the second party shall cause the gauge of the Des Moines & Northwestern Railway Company to be widened from Farnham street to Fonda at any time before the 1st day of January, 1892, he may give notice to that effect to the first parties and thereupon meetings of the stockholders of the Des Moines & Northwestern Railway Company and the Des Moines and Northern Railway Company shall be held twenty days after such notice is given and at such meetings there shall be taken all the proceedings provided for herein to be taken at the meetings so to be held January 1, 1892, and all matters and things to be thereafter done and performed to execute this contract shall be done and performed in like manner and to like effect as though said meetings had been held and said consolidation made on said 1st day of January, the intent being to bring about the consolidation as soon as it can practically be done after the gauge of the Des Moines & Northwestern Railway is so widened.

Sixth: The first parties agree that until said consolidation all the earnings and assets of the said Des Moines & Northern Railway Company whether now in its possession or hereafter coming into its possession shall either be devoted to the payment of operating expenses, the improvement and betterment of the property or otherwise remain in its possession, the intent being that there shall be no withdrawal from said com-

pany of any property that it now has or any that may come into its possession before the said consolidation.

346 Seventh: The first parties further agree that when the consolidation is so made the property of the Des Moines & Northern Railway Company shall be free and clear of all liens or encumbrances, and the said company shall likewise be free and clear of all indebtedness except such liens or indebtedness as may be created in the ordinary operation and maintenance of the railway and except the sum of Seventeen Thousand Dollars due to Pullman's Palace Car Company of Chicago, Illinois which indebtedness is to be paid by the Consolidated Company in its mortgage bonds at not less than ninety per cent of par value and the first parties agree that they will procure the assent of the said Pullman Palace Car Company to the payment of such indebtedness in such manner.

Eighth: The second party agrees that when the consolidation is so made the property of the Des Moines & Northwestern Railway Co. shall be free and clear of all liens or incumbrances and said company shall likewise be free and clear of all indebtedness except such liens or indebtedness as may be created in the ordinary operation and maintenance of the railway.

Ninth: The said G. M. Dodge agrees to sell, assign, transfer and convey unto said Consolidated Company one-eighth of the capital stock of the Des Moines Union Railway Company now owned by him, and one-half of the capital stock of the Midland Coal Company, a corporation organized under  
347 the laws of the state of Iowa, and engaged in the business of producing coal for railway and other purposes and to receive as consideration therefor Fifty-five Thousand Dollars in the first mortgage bonds of the Consolidated Company at par, said assignment, transfer and conveyance to be executed at the time of said consolidation.

Tenth: The second party agrees to sell, assign, transfer and convey unto the said Consolidated Company one-fourth of the capital stock of the Des Moines Union Railway Company now owned by him and to receive as consideration therefor Sixty Thousand Dollars in the first mortgage bonds of said Consolidated Company at par, said assignment, transfer and conveyance to be executed at the time of said consolidation.

Eleventh: It is further mutually agreed that contemporaneously with said consolidation said Consolidated Company shall execute and deliver to the Metropolitan Trust Company

of New York a trust mortgage upon all the property so acquired by it except the capital stock of the Midland Coal Company and except five-eighths of the capital stock of the Des Moines Union Railway Company which mortgage shall contain the usual provisions and conditions and secure the payment of an issue of bonds not to exceed Eighteen Thousand, Five Hundred Dollars per mile of completed standard gauge main track the said mortgage shall among other things provide for the immediate issuance and certification of the

bonds hereinbefore referred to and which constitute  
 348 a part of the consideration of the property consolidated and purchased and shall also contain the customary provisions relating to the issuance and certification of further bonds, but in no event shall the aggregate issue of bonds exceed Eighteen Thousand, Five Hundred Dollars per mile of track which the Consolidated Company shall then own or thereafter acquire or construct. Said corporation shall at the same time execute and deliver to the trustee and the trustee shall certify and deliver pursuant to the provisions of this contract Two Million, Three Hundred and Ninety Thousand Dollars of said first mortgage bonds, said bonds shall be in the form of the exhibit hereto attached marked Exhibit A and made a part hereof.

Twelfth: It is further mutually agreed that contemporaneously with the said consolidation and execution and delivery of the trust mortgage and bonds provided for in the preceding section the first parties will cancel and surrender or cause to be cancelled and surrendered all the mortgage bonds of the Des Moines & Northern Railway Company and will cause the trustee in its said mortgage to satisfy and discharge the same and the second party and G. M. Dodge agree severally in like manner contemporaneously as aforesaid to cancel and surrender or cause to be cancelled and surrendered all the mortgage bonds of the Des Moines & Northwestern Railway Company and to cause the trustee in its said mortgage to satisfy and discharge the same and the first parties agree

that at the same time they will surrender or cause to  
 349 be surrendered all the capital stock of the Des Moines & Northern Railway Company and the second party and G. M. Dodge agree severally that in like manner they will surrender or cause to be surrendered all the capital stock of the Des Moines & Northwestern Railway Company.

Thirteenth: It is further mutually agreed that the consideration so to be paid and issued for and on account of the property, bonds and stock of the Des Moines & Northern Railway Company which is hereinbefore recited to be Six Hundred and Fifty-five Thousand Dollars in the bonds of said

Consolidated Company and One Million and Ninety-two Thousand Dollars of its capital stock shall be disposed of as follows: The said bonds and stock shall be delivered to the first parties, whereupon said first parties shall transfer and deliver said stock to the second party.

Fourteenth: It is further mutually agreed that the consideration so to be paid and issued for and on account of the property, bonds and stock of the Des Moines and Northwestern Railway Company, which is hereinbefore recited to be One Million, Six Hundred Thousand Dollars, in the first mortgage bonds of the Consolidated Company, and Three Million, One Hundred and Eight Thousand Dollars of its capital stock shall be disposed of as follows, to-wit; Fifteen Hundred and Sixty-nine Thousand Dollars of the Bonds to F. M. Hubbell, and Thirty one Thousand Dollars of the bonds to G. M. Dodge and of the stock One Million, One Hundred Thousand Dollars par value to G. M. Dodge and Two Million and Eight Thousand par value of said stock to F. M. Hubbell.

Fifteenth: It is further mutually agreed that Fifty-five Thousand Dollars of said first mortgage bonds of the Consolidated Company shall be delivered to G. M. Dodge as the purchase price of said one-eighth of the capital stock of the Des Moines Union Railway Company, and one-half of the capital stock of the Midland Coal Company, and that Sixty Thousand dollars of said bonds shall be delivered to the second party as the purchase price of one-fourth of the capital stock of the Des Moines Union Railway Company.

Sixteenth: It being the intent of the parties hereto that the interest upon the Six Hundred and Fifty Thousand Dollars of the first mortgage bonds so to be delivered to the first parties shall for a period of five years from and after their date have priority over the interest upon the remainder of said mortgage bonds, the second party agrees that the Consolidated Company shall from and after the time it comes into the possession and begins the operation of said line of railway set apart from month to month for five years six per centum or such lesser amount as may be necessary of its gross earnings to be used for the payment of the interest coupons attached to the said Six Hundred and Fifty Thousand Dollars of bonds and for no other purpose and said second party further agrees that for the said period of five years there shall in no event be anything paid as interest upon the said remaining bonds while any sum is due as interest upon the said Six Hundred and Fifty Thousand Dollars of bonds and the said G. M. Dodge assents to the foregoing provision and agrees to cooperate with the sec-

ond party in the performance thereof. And the said G. M. Dodge and the second party agree that if they or either of them sell or dispose of any of said remaining bonds or cause other bonds to be issued during said period of five years they will take or cause to be taken such action as may be necessary to make this agreement effective as against the bonds so sold or issued.

Seventeenth: The Consolidated Company shall take the property so to be conveyed to it subject to the indebtedness excepted in Sections Seventh and Eighth and shall assume and pay such indebtedness as from time to time it matures.

Eighteenth: Said consolidation shall be carried out under the supervision of A. B. Cummins who shall direct the manner in which the proceedings shall be taken.

In Witness Whereof the parties hereto have hereunto set their hands the year and day first above written.

352 and Whereas in pursuance of said contract for the purpose among other things of carrying out and performing the same and by and with the consent of all the stockholders including the said G. M. Dodge, the said Hubbell did on the 18th day of August, 1891 enter into a contract with this Company to widen the gauge of its tracks as provided in said contract, which said contract between said Hubbell and this Company is as follows, to-wit:

This Agreement made and entered into on this 18th day of August, A. D. 1891 between the Des Moines & North Western Railway Company, party of the first part, and F. M. Hubbell party of the second part, Witnesseth:

That whereas by resolution of the stockholders of the Des Moines & Northwestern Railway Company adopted at a stockholders' meeting of the said company held on the 17th day of August, 1891 action was taken respecting the widening of the gauge of the main and the side tracks of the line of railway of the party of the first part to the standard gauge of four (4) feet and eight and one-half ( $8\frac{1}{2}$ ) inches and also authorizing the Board of Directors to enter into a contract with the party of the second part for the said work including also the surrender and cancellation of all the bonds now outstanding  
353 against this Company and the payment of all of its floating debt and also looking to a consolidation of the said line of railway, its franchises and property with the Des Moines & Northern Railway Co. and

Whereas, at a meeting of the Board of Directors of the said Company held at the office of the said Company on the 18th

day of August, 1891, the Board of Directors authorized the vice-president and secretary of the party of the first part hereto to enter into a contract according to the terms of the said resolutions with the party of the second part covering the said matters.

Now Therefore, the party of the second part hereby agrees and undertakes that he will widen or cause to be widened at his own expense the main and side tracks of the line of railway of the party of the first part to the standard gauge of four (4) feet eight and one-half ( $8\frac{1}{2}$ ) inches and that in so doing he will lay the main track of said line of railway from Clive to the city of Jefferson, Iowa, with steel rails weighing at least fifty-two (52) pounds per yard and between Jefferson and Fonda he will lay the said track with the forty (40) pound steel rails now in use on the said line of railroad and so much of the best thirty-five (35) pound iron rails now in use as shall be necessary to complete the said track between said points.

The said party of the second part further agrees that he will cause all of the bonds now outstanding against the party of the first part to be surrendered and cancelled, and will  
354 further take up, pay and discharge all of the floating debt now outstanding against the party of the first part. All of which things the said party of the second part will do or cause to be done on or before January 1, 1892.

The party of the first part agrees in consideration of the performance of the agreements and covenants above named by the party of the second part that it will pay therefor as follows, to-wit: It will cause to be issued a deed of trust or trust mortgage upon all of its property and franchises to secure a series of bonds of not less than Sixteen Hundred Thousand (1,600,000) dollars and will deliver of the said bonds to the party of the second part Fifteen Hundred and Sixty-nine Thousand Dollars (\$1,569,000.00) and it will further pay to the said party of the second part the net earnings accruing from the operation of the said railway from the first of March 1891 to the first of January 1892, the foregoing to be payment in full for the performance of his undertakings hereinbefore set forth by the party of the second part, or if the party of the first part shall on or before the 1st day of January, 1892 consolidate its franchises and property with the franchises and properties of the Des Moines & Northern Railway Company as now contemplated and agreed upon between the said companies, the party of the second part further agrees to surrender and cancel all of the stock he now holds in the party of the first part and shall receive in full compensation for the performance of the

agreements and covenants of this contract on his part  
 355 including that last above named in lieu of the consideration hereinbefore agreed to be paid of the bonds of the new corporation (the result of the consolidation of the Corporations and properties above named) the sum of Fifteen Hundred and Sixty-nine Thousand Dollars, (\$1,569,000.00) thereof all of which shall be properly secured by a deed of trust or trust mortgage upon all the properties of the companies as consolidated, and of the stock of the said corporation the sum of Two Million, and Eight Thousand Dollars (\$2,008,000.00) together with the net earnings of this company as hereinbefore set out as full compensation for the performance of all and singular the covenants and agreements of the party of the second part hereto.

Signed this 18th day of August, A. D. 1891.

DES MOINES & NORTHWESTERN RY. CO.

By F. C. Hubbell, Vice-Pres.  
 A. N. Denman, Secretary  
 F. M. Hubbell

and Whereas the said Hubbell has now widened the gauge of the tracks of this company in full and complete compliance with the terms and provisions of both the contracts hereinbefore mentioned and has brought the said railroad and its property to that condition in every respect that they should be to conform to and comply with the requirements of said contracts and each of them, and

Whereas it was provided in said first mentioned contract that the entire property of this company should be sold,  
 356 transferred, assigned, consolidated and merged to and in the said Consolidated Company, for and at the consideration of One Million, Six Hundred Thousand Dollars par value of its first mortgage bonds of the character and to be secured as provided in said first mentioned contract and for and at the additional consideration of its capital stock fully paid and non-assessable of the par value of Three Million One Hundred and Eight Thousand Dollars as well as the general consideration of effecting a union of said properties upon the terms recited in said contract, and

Whereas, it was individually agreed by the said Dodge and Hubbell in and by said first mentioned contract and again as stockholders of this Company at the time of the execution of said second mentioned contract that in consideration of said consolidation the said widening of the gauge the payment of certain floating indebtedness, the surrender of all his

capital stock in this company and cancellation and satisfaction of all his mortgage bonds of this company by the said Hubbell and agreed in said first mentioned contract that in consideration of said consolidation and the surrender of all his capital stock in this company, and cancellation and satisfaction of all his mortgage bonds of this company by the said Dodge that he (the said Hubbell) should receive One Million Five Hundred and Sixty-nine Thousand Dollars par value of the first mortgage bonds so to be issued and secured by the consolidated company and Two Million and Eight Thousand dollars par value of the capital stock of the said company so to be issued and that the said Dodge should receive Thirty-one Thousand Dollars par value of the said first mortgage bonds so to be issued and secured by the Consolidated Company, and One Million, One Hundred Thousand Dollars par value of the capital stock of said company so to be issued, the total of said bonds and stock so to be delivered to and received by said Hubbell and said Dodge being the whole amount of bonds and stock to be issued by the Consolidated Company to the Des Moines & Northwestern Railway Company in consideration of the consolidation, union and merger of its property, franchises, bonds and stock, and

Whereas, the payment of said floating debt, the surrender of said capital stock and the cancellation and satisfaction of said mortgage bonds are to be contemporaneous with the issuance and delivery of said bonds and stock of the Consolidated Company,

Now, Therefore, in view of the premises, provisions and agreements hereinbefore recited and referred to Be It Resolved, by the stockholders of the Des Moines & Northwestern Railway Company in meeting duly convened and held as follows, to-wit:

First: That it is for the best interests of all the stockholders and all other persons interested in the property of this company also for the best interest of the public to effect a consolidation, union and merger of all the property franchises, rights, and privileges of this Company, with all the property, franchises, rights and privileges of the Des Moines & Northern Railway Company pursuant to the provisions of Section twelve hundred and seventy-five (1275) of the Code of 1873 of the state of Iowa and according to the terms and provisions of the contract of July 1, 1891, set out in the preamble hereof.

Second: That with full knowledge of all the terms and provisions of the contract between F. M. Hubbell and this Company, a copy of which is set out in the preamble hereof of

the manner in which said Hubbell has performed the same, and of the amounts he has expended in the performance thereof and of all other matters and things relating thereto the stockholders of this company hereby ratify, confirm and approve the same and all the acts and doings of said Hubbell thereunder.

Third: That the railway line including tracks, equipment and all other property belonging to this Company and now in the condition required by said first mentioned contract for consolidation and merger.

Fourth: That the president and secretary of this Company be and they are and each of them is hereby authorized to unite with the president and secretary of the Des Moines & Northern Railway Company in the execution, acknowledgement and consummation of Articles of Consolidation for the formation of said Consolidated Company under such name and style as said officers may select.

That said Articles of Consolidation shall among other things provide for the full sale, release, conveyance, assignment and transfer unto the Consolidated Company of the respective railroads, railroad lands, rights of way, roadways, tracks, stations, station grounds, lands, lots, bridges, culverts, cars, locomotives, rolling stock, tools, machinery fuel, timber, iron, stone, materials and goods and chattels and generally of all property, rights and credits of whatever name, nature or description belonging to the said Des Moines & Northwestern Railway Company, and the Des Moines & Northern Railway, or either of them.

Said Articles shall also confer upon said Consolidated Company full power to issue mortgage bonds to the amount and of the character described in said first mentioned contract to execute a mortgage to secure the payment of the same as therein provided, and also to issue capital stock to the amount and for the purposes therein mentioned. Said Articles shall also provide that the said consolidated company shall assume and become liable for all claims or demands against or indebtedness of said two railway companies except such claims, demands or indebtedness as by the terms of said contract are to be paid, satisfied or discharged by the said G. M. Dodge, and Solon Humphreys, or by the said F. M. Hubbell.

Said Articles shall also provide that among the purposes and objects of said Consolidated Company shall be the following—to own, complete, extend, improve, maintain, and operate the railroads now respectively owned and operated by the Des Moines & Northwestern Railway Company and the

360 Des Moines & Northern Railway Company and to use and enjoy all the corporate and other franchises, rights, privileges, immunities and property of every nature and description which form a part of or are appurtenant or relate to either of said railroads to acquire by construction, purchase, lease or otherwise and own and operate additional lines of railway in this or any adjoining state to construct and operate branches or extensions of the lines of railway now consolidated to own capital stock in the Des Moines Union Railway Company or any other terminal company to own capital stock in any coal, stone or elevator company to own or lease and operate such coal mines, stone quarries, warehouses and elevators as may be convenient, profitable or necessary in the management and operation of its lines of railway. Said Articles shall also contain such other provisions as may be convenient or necessary for the complete and efficient organization of said Consolidated Company, and agreed upon by the said officers of said companies and it is expressly declared that the enumeration herein contained is not exclusive. The president and secretary of this company are also authorized to execute, acknowledge and deliver such deeds of conveyance, transfers and assignments as may be required to give said Consolidated Company evidence of ownership of all the property, rights, privileges and franchises which by said Articles of Consolidation is vested in it.

361 Fifth: That the consideration to be paid and issued by said Consolidated Company for and on account of the said property, rights, franchises and privileges of the Des Moines & Northwestern Railway Company, the payment of its indebtedness, cancellation and satisfaction of its bonds, the surrender of its capital stock, and the general considerations of consolidation as shown in said contract shall be One Million, Six Hundred Thousand Dollars in the first mortgage bonds of the Consolidated Company, secured by mortgage and Three Million, One Hundred and Eight Thousand Dollars par value of the capital stock of the Consolidated Company, said bonds to be executed and secured and said stock to be issued as provided by the terms of said first mentioned contract.

Sixth: That when said Consolidated Company is ready to deliver the mortgage bonds and capital stock mentioned in the last preceding resolution and contemporaneously with the delivery thereof the said Dodge shall cancel and satisfy the bonds of this company held by him amounting without interest to Thirty-One Thousand Dollars, and surrender the capital stock of this company held by him amounting to Three Hundred and Fifty Thousand Dollars par value and at the same time the said F. M. Hubbell shall cancel and satisfy the bonds of this

company held by him amounting without interest to Three Hundred and Nineteen Thousand Dollars, and surrender the capital stock of the company held by him amounting to Six Hundred and Fifty Thousand Dollars par value, and shall also produce receipts showing the payment of the floating 362 debt of the company as provided in said contract and thereupon the said Consolidated Company shall issue and deliver to said Dodge its said first mortgage bonds amounting to Thirty-One Thousand Dollars par value and its capital stock amounting at par value to One Million, One Hundred Thousand Dollars and said Consolidated Company shall at the same time issue and deliver to the said F. M. Hubbell its said first mortgage bonds amounting to One Million Five Hundred and Sixty-nine Thousand Dollars par value, and its capital stock amounting at par value to Two Million and Eight Thousand Dollars which bonds and stock so to be issued and delivered to said Dodge and said Hubbell constitute the consideration to this company for such consolidation, merger and union and this company distributes and disposes of the same in the aforesaid manner and proportion according to the provisions of said first mentioned contract and for the considerations as between said Dodge and said Hubbell the sole parties in interest therein named.

Seventh: That all the acts and doings of whatever kind of nature heretofore done or performed by the officers and directors of this company are, and each of them is hereby ratified, approved and confirmed and inasmuch as the said Dodge and the said Hubbell are the sole parties in interest in the property, obligations, bonds and stock of this company, each acknowledges to the other that with full knowledge of the manner in which the company has been conducted the manner and 363 amount of all expenditures made or caused to be made by the said Hubbell whether as president of the company or as contractor in widening the gauge of the road that no claim or demand exists in favor of one and against the other, and these resolutions shall be accepted as a final and complete settlement between said parties with respect to all matters connected with or relating to this company.

Eighth: That Wager Swayne, Esq., Trustee of the mortgage securing the payment of the mortgage bonds of this company be and he is hereby requested to satisfy and release said trust mortgage whenever all the bonds secured thereby shall be cancelled and satisfied.

Whereupon H. D. Thompson seconded the motion for the adoption of said preamble and resolutions. After consideration by the stockholders the President announced the question

to be. Shall the same preamble and resolutions be adopted? and thereupon ordered the secretary to call the roll of stockholders which being done, said stockholders voted: as follows:

F. M. Hubbell voted 3250 shares Aye; G. M. Dodge voted 3500 shares Aye; F. M. Hubbell & Son voted 3249 shares aye; A. B. Cummins voted 1 share aye; F. C. Hubbell voted 1 share aye; L. M. Martin voted 1 share aye; H. D. Thompson voted 1 share aye; A. N. Denman voted 1 share, aye; Total 10,004 shares, Aye:

Whereupon the president declared that said preamble and resolutions had been duly and legally adopted by the  
364 unanimous vote of all the stockholders of the company.

Upon motion of L. M. Martin the stockholders of the Des Moines & Northwestern Railway Company adjourned sine die.

### Defendants' Exhibit 200.

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#### Des Moines and North Western Railway Company.

Directors' Meeting. December 8, 1891.

The Board of Directors of the Des Moines & Northwestern Railway Co. met in regular session Decr. 8, 1891.

Present: F. M. Hubbell, F. C. Hubbell, H. D. Thompson, A. N. Denman. 4

Absent: Messrs. G. M. Dodge, A. B. Cummins, L. M. Martin.  
3.

F. M. Hubbell, President in the Chair.

The following preamble and resolution was offered and unanimously passed. Whereas this company advanced to the Des Moines Union Railway Company during the years 1889 and 1890 the sum of Three Thousand Four Hundred and Thirty-seven 58 100 (3437.58) Dollars which was used in new construction, and which amount said company has agreed to refund and pay to this company in its first mortgage 5% 30 year bonds at par, and

Whereas this company is indebted to the Des Moines Savings Bank in the sum of Fifteen Thousand Dollars (\$15,000.) and accrued interest and the said bank has signified its willingness to accept from this company at 92½% the Des Moines Union Railway Company bonds now due to this company on account of the transactions above mentioned, Now Therefore be it

366 Resolved; That the President of this company is directed to receive from the Des Moines Union Railway Company bonds to the full amount of the advances so made and pay said bonds to the Des Moines Savings Bank at 92½% in part payment of the indebtedness of this company to the bank as above set out.

Upon motion adjourned.

A. N. DENMAN, Secretary.

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### Defendants' Exhibit 201.

**St. Louis, Des Moines & Northern Railway Company.**

Board Meeting. January 22nd 1882.

The board met this day pursuant to adjournment. A quorum being present the minutes of the preceeding meeting were read and approved.

On motion of J. R. Runkells it was

Resolved, That the President and Secretary of this Company execute in behalf of this Company a conveyance to the Des Moines Northwestern Railway Company of all its right title and interest in and to its branch road from Clive to Waukee and one half of its road from the station of Clive to Farnham Street in the City of Des Moines Iowa and an agreement with said railway company with reference to the operation and management of the joint road and the final division of the same &c &c. (A copy of which dated January 3rd 1882 with the approval of the Wabash St. Louis & Pacific Railway Company endorsed thereon is filed with the Secretary of this Company) and that the same be delivered to G. M. Dodge for delivery to the Des Moines Northwestern Railway Company when the same shall be paid for by it.

The Secretary having presented for the consideration of this board a mortgage from this Company to the Mercantile Trust Company of New York covering the railroad and property of this Company lying west of the western boundary line of the City of Des Moines except so much of the same  
368 as had been theretofore sold to the Des Moines North Western Railway Company to secure the bonds of this Company heretofore issued which mortgage bears date Aug. 1st 1881 and a copy of which is filed with the Secretary of this Company.

## Defendants' Exhibit 202.

**St. Louis, Des Moines & Northern Railway Company.**

Resolution adopted at Stockholders' Meeting Jan. 1, 1885.

Resolved, That this company ratify and approve the election heretofore made, of G. M. Dodge and C. F. Meek to serve as directors of the Des Moines Union Railway Company in accordance with the provisions of Article 4 of the Articles of Incorporation of that company, authorizing this company to nominate two members of the Board of Directors of said Company.

On motion of F. M. Hubbell, the following preamble and resolutions were submitted to the meeting for its consideration, to-wit, and were unanimously adopted:

Whereas the Des Moines and St. Louis Railroad Company, the Des Moines North Western Railway Company, the St. Louis, Des Moines and Northern Railway Company, G. M. Dodge and James F. How and Jas. F. How, Trustee, on the 2nd day of January, A. D. 1882, entered into a contract whereby it was agreed to purchase, hold, control and use certain real estate and franchises, in the City of Des Moines, which had theretofore been held and used by certain of the individual parties thereto, for certain purposes and upon certain conditions set out in said contract; and

Whereas, on the 10th day of December, A. D. 1884, a corporation under the name and style of the Des Moines Union Railway Company was organized as contemplated, and provided in the aforesaid contract to acquire, hold, use and enjoy the real estate property, rights and franchises in the City of Des Moines, east of Farnham Street in said City of the aforesaid railway companies and signatories of said contract acquired or held thereunder and to carry out the purposes of the said contract of January 2nd, 1882.

**Now Therefore:**

1. Resolved, That this Company accepts and ratifies so far as its interests are affected thereby, the Articles of Incorporation of the Des Moines Union Railway Company as in substantial accord and compliance with the terms and conditions of the said contract of January 2, 1882, and undertakes to discharge all the obligations imposed upon it by said contract in order to make effective the purposes of said Des Moines Union Railway Company.

369 11. Resolved: That the proper officers of this Company be authorized upon the issuance to it of the share of the bonds and stock of said Des Moines Union Railway

Company to which it may be entitled, under said contract to convey, assign and transfer to said Company all its right, title and interest of whatever name and character, in and to the real estate, franchises, choses in action, and rights in possession or contingent to all the property in the City of Des Moines east of Farnham Street in said City, now held, enjoyed or claimed by either or all of the signatories of said contract of January 2, 1882, or any agent or trustee thereof purchased acquired or held in pursuance of said contract.

Resolved, That the proper officers of the company be authorized to transfer the management, and operation of its property in Des Moines so far as the same may now be vested in the company on the 1st day of January or as soon thereafter as practicable leaving the question of settlement between this company and the Des Moines Union Railway Company as authorized under the resolution for that purpose heretofore this day adopted to be arranged as directed therein.

And the same being duly considered was adopted by the meeting all the stock present and represented voting therefor.

### Defendants' Exhibit 203.

**St. Louis, Des Moines & Northern Railway Company.**

Directors Meeting January 1st 1885.

Resolution as follows:

On motion of C. F. Meek the following resolution was submitted to the Board to-wit:—

"Resolved, That the proper officers of the company be authorized to transfer the management, and operation of its property in Des Moines so far as the same may now be vested in the company on the first day of January or as soon thereafter as practicable leaving the question of settlement between this company and the Des Moines Union Railway Company as authorized under the resolution for that purpose heretofore this day adopted to be arranged as directed therein."

And after the same was duly considered it was adopted by the Board. All the Directors voting therefor.

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**Defendants' Exhibit 204.****St. Louis, Des Moines & Northern Railway Company.**

Stockholders Meeting. January 7th 1886.

Record of resolution as follows:

On motion the Vice President of this Company was directed to attend the annual meeting of the Des Moines Union Ry. Co. for the election of a Board of Directors and nominate on behalf of this Company G. M. Dodge and C. F. Meek to be voted for as two of the Directors of such Railway Company.

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**Defendants' Exhibit 205.****St. Louis, Des Moines & Northern Railway Company.**

Stockholders Meeting. January 6th 1887.

On motion the Assistant Secretary was directed to attend the annual meeting of the Des Moines Union Railway Company for the election of a Board of Directors, and nominate on behalf of this company G. M. Dodge and C. F. Meek to be voted for as two of the Directors of said Railway Company.

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**Defendants' Exhibit 206.****St. Louis, Des Moines & Northern Railway Company.**

Board of Directors Meeting. January 3rd 1889.

The newly elected Board met this day in regular session.

Present. A. B. Cummins, L. M. Martin and F. M. Hubbell, being a quorum.

The Board was called to order and L. M. Martin was chosen to preside at the meeting.

Thereupon on motion of A. B. Cummins the Board proceeded to the election of officers of the company for the ensuing year, and the following named persons each received the unanimous vote of all the Directors present for the several officers hereinafter mentioned, and were declared duly elected thereto, to-wit:

G. M. Dodge	President
A. B. Cummins	Vice President
J. T. Granger,	Secretary & Treasurer
F. M. Hubbell,	Assistant Secretary & Treasurer.

The minutes of the preceding meetings of the Board were read and approved.

On motion, G. M. Dodge and L. M. Martin were nominated as Directors of the Des Moines Union Railway Company for the year 1889, and the Secretary was directed to certify such nomination to the annual meeting of stockholders of said company.

Whereupon the Board adjourned.

F. M. HUBBELL, Asst. Secy.

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**Defendants' Exhibit 207.**

**St. Louis, Des Moines & Northern Railway Company.**

Stockholders' Meeting, January 2, 1890.

Resolution adopted as follows:

Mr. L. M. Martin offered the following resolution:

Resolved, that the stockholders of the St. Louis Des Moines & Northern Railway Company, hereby ratify and approve the execution of the mortgage of the Central Trust Company by the Des Moines Union Railway Company upon all its property and franchises to secure the issuance of Eight Hundred Thousand, (\$800,000.00) Dollars of first mortgage bonds, and do hereby declare that this resolution shall have the same force and effect as though this authority had been executed prior to the execution of said mortgage.

The resolution was carried unanimously.

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**Defendants' Exhibit 208.**

**Des Moines, Northern & Western Railway Company.**

Meeting of stockholders, Des Moines, Iowa, December 14th, 1891.

The stockholders of the Des Moines, Northern & Western Railway Company met at the office of the Company in Des Moines, Iowa. Present, F. M. Hubbell, F. C. Hubbell, F. M. Hubbell & Son, G. M. Dodge and Solon Humphreys (by proxy, duly filed), L. M. Martin, A. B. Cummins, H. D. Thompson, and A. N. Denman.

President F. M. Hubbell presiding.

Upon call it appeared that all persons owning or having any interest in the capital stock of the Des Moines, Northern & Western Railway Company were present, or represented as aforesaid.

Whereupon A. B. Cummins offered the following resolution and moved its adoption.

Whereas the Board of Directors of this Company did, at its meeting held on the fourteenth day of December, 1891, unanimously adopted the following preamble and resolutions, to-wit:

“Whereas, by the terms of the Articles of Consolidation heretofore entered into between the Des Moines & Northwestern Railway Company and the Des Moines & Northern Railway Company, and of the resolutions heretofore adopted by the stockholders of said two respective companies, it has been provided, among other things, that a portion of the consideration for the consolidation of the property, rights and franchises of said corporations above mentioned, and of the cancellation, satisfaction and surrender of all the mortgage bonds and capital stock of said two corporations, and the widening  
381 of the gauge of the Des Moines & Northwestern Railway Company, and the payment of the floating indebtedness of both companies (save and except certain items described in said Articles and Resolutions), should be the issuance by this Company of certain of its first mortgage bonds, secured by a trust mortgage upon all the property of the consolidated corporation (save and except certain items mentioned in said resolutions), and

Whereas, said consolidation is now complete, and this company is now the owner of all the property, rights, privileges, franchises and immunities heretofore owned by the Des Moines & Northwestern Railway Company and the Des Moines & Northern Railway Company,

Be it therefore resolved; that the Des Moines, Northern & Western Railway Company, the consolidated corporation heretofore referred to, shall duly execute and acknowledge a trust mortgage to the Metropolitan Trust Company of the City of New York, as Trustee, which mortgage shall convey, under the usual terms and conditions, all its railroad extending from Farnham street in the city of Des Moines, County of Polk, and state of Iowa, through the counties of Polk, Dallas, Guthrie, Greene, Calhoun, and Pocahontas, Iowa, to Fonda in said last named county, and also extending from Farnham street aforesaid over the same line to Clive in the County of Polk, and thence through the counties of Polk, Dallas and Boone, Iowa, to the city of Boone in said last named county, together with

all its real estate necessary for and used in the operation  
382 of said lines of railway; its rights of way, roadbed, bridges, tracks, sidetracks, turnouts, switches, buildings and structures, water tanks and fixtures, shops, engine and other houses, depots, turn tables, engines, cars and machinery; also together with all its corporate and other franchises, rights, privileges and immunities, rents, issues, tolls and earnings; also all its property of whatsoever name, nature or description that may hereafter be acquired; also a one-fourth interest in the capital stock of the Des Moines Union Railway Company; but it is expressly understood and agreed that said mortgage shall not convey an additional five-eighths interest in the capital stock of the said Des Moines Union Railway Company, of which the said company is the owner, nor one-half of the capital stock of the Midland Coal Company, of which it is the owner; it being the intent to convey and mortgage all its railroad property, and all things appurtenant thereto, or used in connection therewith, whether now acquired and owned or hereafter acquired and owned, except as hereinbefore provided. The said mortgage shall be executed to secure the issuance of a series of bonds of One thousand dollars each, payable forty years after date in gold coin of or equal to the present standard of value, with interest payable semi-annually in like gold coin at the rate of four per cent. per annum for the five years first ensuing after their date, and at the rate of five per cent. per annum thereafter. Said mortgage shall provide that said bonds may be issued at the rate of Eighteen thousand five hundred  
dollars per mile of completed, equipped standard gauge  
383 main track and branches, owned by the company, and that in no event shall the aggregate issue of bonds exceed Eighteen thousand five hundred dollars per mile of completed, equipped standard gauge main track and branches. It shall further provide that no bond shall be legal or valid until it has received the certificate of the trustee; that such bonds at the rate of Eighteen thousand five hundred dollars per mile of completed, standard gauge main track now owned and operated by the Company shall be at once issued, certified by the Trustee, and delivered as hereinbefore provided; and that further bonds may be issued, and when so issued, shall be certified by said Trustee, as from time to time the company adds to its present mileage of such main track or branches.

Resolved further: That the President and Secretary of this company be and they are hereby authorized to duly execute and acknowledge such trust mortgage containing the provisions above set forth, and such other provisions as to them may seem best, and to deliver the same to the Trustee therein named. They are further authorized to execute and issue bonds, secured

by said trust mortgage, of the amount and containing the provisions hereinbefore set forth, and such other provisions as may seem to them best, to the extent of Eighteen thousand five hundred dollars per mile of completed, equipped, standard gauge main track now owned by the company; they are further authorized to have said bonds certified by said Trustee, and to dispose of the same as follows, to-wit:

384 They shall deliver One million five hundred and sixty-nine thousand dollars, par value, of the same to F. M. Hubbell, for and on account of the considerations expressed in the said resolutions and the said articles of consolidation.

They shall deliver Thirty-one thousand dollars, par value, thereof to G. M. Dodge, for and on account of the same consideration.

They shall deliver Six hundred and fifty-five thousand dollars, par value, thereof to G. M. Dodge and Solon Humphreys, for and on account of the same considerations.

They shall deliver Fifty-five thousand dollars, par value, thereof to G. M. Dodge, for and on account of the purchase price of one-eighth of the capital stock of the Des Moines Union Railway Company, and one half of the capital stock of the Midland Coal Company.

They shall deliver Sixty thousand dollars, par value, thereof to F. M. Hubbell, for and on account of the purchase price of one-fourth of the capital stock of the said Des Moines Union Railway Company.

They shall deposit the remainder of said bonds in the treasury of the Company, to be used and disposed of for the benefit of the Company as the Board of Directors may hereafter determine.

Resolved further: That the delivery of the bonds herein provided for shall be made contemporaneously with the cancellation and satisfaction of all the mortgage bonds of

385 the said Des Moines & Northwestern Railway Company, and the Des Moines & Northern Railway Company, of the satisfaction of the trust mortgages securing the same, of the surrender of all the capital stock of said two corporations, and of the payment of the floating indebtedness thereof, as provided in said resolutions and the preamble thereof.

The motion for the adoption of said preamble and resolutions, was seconded by H. D. Thompson, and after consideration, it was submitted to the Directors and unanimously adopted; and thereupon the President declared that said resolutions

had been adopted by the unanimous vote of all the Directors of the corporation now present, to-wit; six in number."

Now therefore, be it resolved by the stockholders of the Des Moines, Northern & Western Railway Company, being all here present, or duly represented, that the above and foregoing resolutions be and the same are hereby ratified, approved and confirmed.

The motion to adopt the resolution so offered by Mr. Cummins, was duly seconded, and upon being submitted, received the affirmative votes of all present and represented.

Whereupon, the President declared that the resolution had been duly adopted by the votes of all stockholders and those interested in the stock of the Des Moines, Northern & Western Railway Company.

Whereupon, on motion, the meeting of stockholders adjourned.

R. L. CHASE, Secy.

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**Defendants' Exhibit 209.****Des Moines, Northern & Western Railway Company.**

Adjourned Meeting of the Board of Directors of the Des Moines Northern & Western Ry. Co. held at the Office of the President of the Company Octo. 4th 1893, at 2 o'clock p. m.

The Board of Directors met pursuant to adjournment.

There were present F. M. Hubbell, President, H. D. Thompson, A. B. Cummins, L. M. Martin, F. C. Hubbell and A. X. Denman.

The President stated the object of the meeting to be to take some action to give to F. M. Hubbell & Son such security as the Company could give for the indebtedness held by that firm against the Company.

After full discussion, on motion of A. B. Cummins, it was Resolved that this Company pledge to F. M. Hubbell & Son, as collateral security, nineteen (19) bonds of the Des Moines Union Ry. Co., of one thousand dollars (\$1,000) each, numbered as follows: 562, 563, 570, 571, 575 to 584 inc. and 607 to 611 inc. and certificate of stock to the amount of two hundred fifty thousand dollars (\$250,000.00) in the Des Moines Union Ry. Co. Said certificate being numbered as follows: No. 26 dated Octo. 4, 1893.

This Resolution was seconded by L. M. Martin, whereupon a vote was taken which resulted in the adoption of said Reso-

lution, by the unanimous vote of all of the Directors present, and the Treasurer of this Company was directed to deliver to F. M. Hubbell & Son the above specified collaterals.

388 The indebtedness secured by the above pledge is set out in the following schedule of notes, to-wit:

Note No.	Amount.	Date.
14.	\$ 10,000.00	July 1, 1892.
15.	10,000.00	" 9, "
22.	5,000.00	" 18th "
23.	5,000.00	Aug. 3 "
24.	5,000.00	Nov. 19 "
25.	10,000.00	" 28 "
26.	10,000.00	Dec. 20 "
30.	15,000.00	Jan. 21 1893.
32.	10,000.00	Apr. 3 "
35.	9,000.00	" 26 "
37.	6,000.00	May 19 "
38.	5,000.00	" 22 "
39.	5,000.00	" 31 "
41.	5,000.00	June 3 "
42.	5,000.00	" 17 "
44.	4,000.00	26 "
47.	3,000.00	Aug. 17 "
Total,	\$122,000.00	

Whereupon the Board adjourned to meet at the office of the President on Octo. 25th 1893.

R. L. CHASE,  
Secy.

### 389 Defendants' Exhibit 210.

#### Des Moines, Northern & Western Railway Company.

Des Moines, Iowa Jan. 9, 1894.

Minutes of Adjourned Meeting of the Stockholders of the Des Moines Northern & Western Ry. Co., held at the office of the President Jany. 9, 1894.

There were present in person:

F. M. Hubbell, F. M. Hubbell & Son, F. C. Hubbell, H. D. Thompson, A. B. Cummins, A. N. Denman and L. M. Martin, and by proxy, Gen'l. G. M. Dodge, represented by L. M. Martin, and W. R. Warfield by his proxy, L. M. Martin.

F. M. Hubbell was appointed chairman of the meeting.

On motion of L. M. Martin, the minutes of all of the meetings of the Board of Directors, held during the year 1893 were read and approved, and all of the acts and doings of the officers of the Company were confirmed, ratified and approved.

L. M. Martin moved that the stockholders proceed to the election of a Board of seven (7) Directors to hold their office during the ensuing year. Carried.

F. C. Hubbell moved that the Board of Directors for 1893; viz. G. M. Dodge, F. M. Hubbell, F. C. Hubbell, L. M. Martin, A. B. Cummins, A. N. Denman and H. D. Thompson, be re-elected for the year 1894. The motion being duly seconded, the following vote was had:

	F. M. Hubbell voted .....	15,000 Shares
	F. M. Hubbell & Son by F. M. Hubbell, voted .....	14,997 "
300	G. M. Dodge by his proxy, L. M. Martin, voted .....	5,000 Shares
	L. M. Martin voted .....	5,950 "
	A. B. Cummins voted .....	1,000 "
	W. R. Warfield by his proxy, L. M. Martin, voted .....	50 "
	A. N. Denman, voted .....	1 "
	F. C. Hubbell voted .....	1 "
	H. D. Thompson voted .....	1 "
	Total .....	42,000 Shares.

The entire issue of stock having been voted for the persons nominated by F. C. Hubbell, they were declared unanimously elected as Directors of the Company for the ensuing year.

On motion of H. D. Thompson, a vote of thanks was tendered the General Manager, L. M. Martin, and the Superintendent, F. C. Hubbell, for the efficient manner in which the property of the Company had been managed and operated during the past year.

Carried unanimously.

On motion, the stockholders meeting adjourned sine die.

R. L. CHASE, Secretary.

### Defendants' Exhibit 211.

#### Des Moines, Northern & Western Railway Company.

Des Moines Iowa, Jany. 29, 1894.

Minutes of the Adjourned Meeting of the Board of Directors of the Des Moines Northern & Western Railway Company, held at the office of the President Jany. 29, 1894.

The Board met pursuant to adjournment. There were present, F. M. Hubbell, L. M. Martin, A. B. Cummins, A. N. Denman, and H. D. Thompson.

A. B. Cummins offered the following preamble and resolution.

Whereas, this Company is indebted to F. M. Hubbell & Son in the sum of one hundred twenty eight thousand eight hundred thirty three and 33/100 dollars (128,833.33) for principal and interest upon certain promissory notes as follows to-wit:

Note No.	Amount.	Date.
14.	\$ 10,000 00	July 1, 1892
15.	10,000 00	" 9, "
22.	5,000 00	" 18, "
23.	5,000 00	Aug. 3, "
24.	5,000 00	Nov. 19, "
25.	10,000 00	" 28, "
26.	10,000 00	Dec. 20, "
30.	15,000 00	Jan. 21, 1893.
32.	10,000 00	Apr. 3, "
35.	9,000 00	" 26, "
37.	6,000 00	May 19, 1893.
38.	5,000 00	" 22, "
39.	5,000 00	" 31, "
41.	5,000 00	June 3, "
42.	5,000 00	" 17, "
44.	4,000 00	" 26, "
47.	3,000 00	Aug. 17, "
56.	3,000 00	Jan. 2, 1894.
57.	3,000 00	" 20, "
Int. 1 month on \$125,000 00	833.33	
Total	\$128,833.33	

Whereas, a large part of said indebtedness is now long past due, and the Company is unable to pay the same or any part thereof, and

Whereas, The said F. M. Hubbell & Son are liable as endorsers upon certain promissory notes executed by the Company to the Metropolitan Trust Company of New York, and to the American Savings Bank of the City of Des Moines, which notes aggregate twenty thousand dollars (\$20,000.00) and

Whereas, the Company will be unable to pay said notes at maturity, and it will be necessary for the said F. M. Hubbell & Son to pay and discharge the same on account of their indorsements; and

Whereas, this Company has in its treasury certain of its first mortgage bonds, to-wit bonds numbered 2448 to 2577, inclusive, and bonds numbered 2676 to 2770 inclusive amounting to two hundred twenty five thousand dollars (\$225,000.00) and the Company, although it has made strenuous efforts to dispose of the same at fifty five (55) per centum of their par value, has been wholly unable to do so hav-

ing in said efforts offered to each of the stockholders of the Company, as well as in the markets, the said bonds at said price; and

Whereas, the Company is also the owner of twenty five hundred (2500) shares of the capital stock of the Des Moines Union Railway Company evidenced by Certificate No. 26, which shares of stock have no market value; and

Whereas, the said F. M. Hubbell & Son have offered to accept the said two hundred twenty five (225) first mortgage bonds above described at fifty five (55) cents on the dollar of their face value, with all coupons maturing prior to July 1, 1894, detached, and have offered to purchase said capital stock of the Des Moines Union Ry. Company at ten (10) per centum of the par value thereof, and to cancel and surrender to this Company in payment of said bonds and stock the said promissory notes, aggregating one hundred twenty eight thousand dollars (\$128,000.00) exclusive of interest, and to assume and pay sufficient of said notes now in the hands of the Metropolitan Trust Company and the American Savings Bank to represent the difference between the aforementioned notes and the purchase of the bonds and stock as hereinbefore described.

It is therefore now Resolved. That the Treasurer of  
394 this Company be and is hereby authorized and directed to transfer and deliver to the said F. M. Hubbell & Son the said bonds numbered 2448 to 2577 and 2676 to 2770 inclusive, with all coupons maturing prior to July 1, 1894, detached, and to assign and deliver to the said F. M. Hubbell & Son the twenty five hundred (2500) shares of capital stock of the Des Moines Union Railway Company evidenced in said Certificate No. 26, upon the surrender to him as Treasurer of the Company of the said notes of the Company, aggregating one hundred twenty eight thousand dollars (\$128,000.00) and upon receiving an agreement from the said F. M. Hubbell & Son containing an undertaking on their part to pay the said sum of nineteen thousand nine hundred sixteen and 67/100 (\$19,916.67) upon the notes so held by the Metropolitan Trust Company and said American Savings Bank.

On motion of A. B. Cummins seconded by L. M. Martin the foregoing resolution was adopted by the affirmative vote of A. B. Cummins, A. N. Denman, L. M. Martin and H. D. Thompson, F. M. Hubbell not voting.

On motion the Board Adjourned sine die.

R. L. CHASE, Secretary.

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**Defendants' Exhibit 212.**

**Des Moines, Northern & Western Railway Company.**

Des Moines Iowa, July 26th 1894.

Minutes of the Adjourned Meeting of the Board of Directors of the Des Moines Northern & Western Railway Company, held at the Office of the President, July 26th 1894.

F. M. Hubbell President, presiding.

There were present,—Directors, F. M. Hubbell, A. B. Cummins, L. M. Martin, F. C. Hubbell, A. N. Denman and H. D. Thompson.

The President presented the traffic contract dated March 15th, 1894, entered into between the Des Moines Northern & Western Railway Company, and the Chicago, Milwaukee & St. Paul Railway Company, and asked to have the same approved, whereupon L. M. Martin offered the following resolution:

Resolved that the traffic contract now presented to this Board, executed by the Officers of this Company, and the Officers of the Chicago, Milwaukee & St. Paul Railway Company be hereby ratified, approved and confirmed. Said Resolution was adopted and passed by the unanimous vote of the six Directors present.

Director A. N. Denman handed in his resignation of the office of Director of this Company.

On motion, his resignation was accepted. Thereupon H. D. Thompson moved that E. P. Ripley, 3rd Vice President of the Chicago Milwaukee & St. Paul R'y Company, be elected to fill the vacancy caused by the resignation of Mr. Denman, as

396 Director of this Company, to hold his office until the next annual meeting of its stockholders, in January 1895.  
Carried.

On motion the meeting adjourned sine die.

R. L. CHASE,  
Secretary.

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**Defendants' Exhibit 213.**

**Des Moines, Northern & Western Railway Company.**

Des Moines Iowa, Octo. 3, 1894.

Minutes of the Adjourned Meeting of the Board of Directors of the Des Moines Northern and Western Railway Company held at the Office of the President of the Company October 3<sup>rd</sup>, 1894.

There were present F. M. Hubbell, F. C. Hubbell, H. D. Thompson and A. B. Cummins.

**Treasurer's report of sale of D. M. Union Ry. Bonds.**

The Treasurer reported that he had received from the President of the Des Moines Union Railway Company nine (9) Des Moines Union Ry. Bonds Nos. 620 to 628 both inclusive, with the November 1st, 1894 and subsequent coupons attached, in payment for money expended for construction for the Des Moines Union Ry. Company during the year 1893.

The Treasurer also reported that in pursuance of a resolution of the Board of Directors of this Company, adopted December 5th, 1893, in which the President was directed to sell Des Moines Union Ry. Bonds at not less than ninety (90) per cent he had sold to Gen'l. G. M. Dodge eight (8) Des Moines Union Ry. Bonds Nos. 562, 563, 571, 607, 608, 609, 610 and 611; and to F. M. Hubbell and F. M. Hubbell & Son ten (10) Des Moines Union Ry. Bonds Nos. 570, 620, 621, 622, 623, 624, 625, 626, 627 and 628, with the November 1st, 1894, and subsequent coupons attached, at par, and had accepted in payment for same, the past due coupons of this Company, at par; and that this sale disposed of all of the Des Moines  
398 Union Ry. Bonds belonging to this Company.

Whereupon the action of the President was approved, and the report of the Treasurer adopted.

On motion the meeting adjourned until Octo. 29th, 1894.

R. L. CHASE,

Secretary.

399

**Defendants' Exhibit 214.**

**Des Moines, Northern & Western Railway Company.**

Des Moines, Iowa, Jan'y. 3, 1895.

Minutes of the Annual Meeting of the Stockholders of the Des Moines Northern & Western Ry. Co. held at the office of the President, January 3, 1895.

There were present and represented, F. M. Hubbell, F. M. Hubbell & Son, F. C. Hubbell, H. D. Thompson and A. B. Cummins in person, and Roswell Miller, Trustee, by proxy to F. M. Hubbell.

On motion duly seconded, F. M. Hubbell was elected Chairman of the meeting.

On motion of H. D. Thompson the minutes of all of the meetings of the Board of Directors held during the year 1894, were read and approved, and all of the acts and doings of the Officers of the Company were confirmed, ratified and approved.

A. B. Cummins moved that the stockholders proceed to the election of a Board of seven Directors to hold their office during the ensuing year. Carried.

F. C. Hubbell moved that the Board of Directors for the year 1895 shall consist of the following named persons, to-wit:

E. P. Ripley, A. J. Earling, P. M. Myers, F. M. Hubbell, H. D. Thompson, A. B. Cummins, and F. C. Hubbell.

On motion duly seconded the following vote was had:

400	F. M. Hubbell voted	6676	Shares
	F. M. Hubbell & Son, voted	6673	"
	A. B. Cummins, voted	446	"
	Roswell Miller, Trustee, voted,	23268	"
	Total	37063	Shares.

There being no other persons nominated and all of the above named gentlemen having received the votes of a large majority of all of the stock of this Company, to-wit, 37063 Shares, were declared unanimously elected as Directors of the Company for the ensuing year.

On motion the stockholders meeting adjourned sine die.

A. N. DENMAN,  
Secretary.

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### Defendants' Exhibit 215.

#### Des Moines, Northern & Western Railway Company.

Directors' Meeting, March 5, 1895.

First meeting of the board of directors named in the Articles of Incorporation filed March 4, 1895, of the Des Moines, Northern & Western Railroad Company, held at the office of the Company in the city of Des Moines on the 5th day of March 1895 at 11 o'clock A. M.

#### Minutes of Proceedings.

Present: A. B. Cummins, H. D. Thompson, A. N. Denman, Carroll Wright, J. P. Hewitt, C. Huttenlocher and J. C. Cummins.

Upon motion of H. D. Thompson, A. N. Denman was unanimously elected temporary chairman of the Board and J. C. Cummins temporary secretary. A. N. Denman presiding.

A. B. Cummins offered the following resolution, to-wit:

Be it Resolved, that the Des Moines, Northern & Western Railroad Company purchase of G. M. Dodge, F. M. Hubbell and F. C. Hubbell, Purchasing Committee, all those certain lines of railroad and all that railway property together with franchises and appurtenances more particularly described as follows, to-wit:

A certain line of railroad extending from Farnham Street in the city of Des Moines, Polk County, Iowa, through  
 402 the counties of Polk, Dallas, Guthrie, Greene, Calhoun and Pocahontas to Fonda in the said last named county; and also extending from Clive in the county of Polk through the counties of Polk, Dallas and Boone to Boone in the county of Boone and state of Iowa, together with all the real estate necessary for and used in the operation of said lines of railroad, the rights of way, road bed, bridges, tracks, side tracks, turnouts, switches, buildings and structures, water tanks and fixtures, shops, engine and other houses, turn tables, engines, cars and machinery, also all the franchises, rights, privileges and immunities connected with, appurtenant to, or used in the operation of the railway property hereinbefore described; also all the rents, issues, tolls and earnings now in the possession of the grantors, and arising from the use and operation of said property, also a one-fourth interest in the capital stock of the Des Moines Union Railway Company; the intent being to acquire by such purchase the full and absolute title of the said railroad lines as they now exist, with all their appurtenances and incidents as received from the said Purchasing Committee by a deed of conveyance executed and delivered by George F. Henry, Commissioner of the United States Circuit Court within and for the Southern District of Iowa, dated the 8th day of February 1895, and which deed of the said Commissioner was made in pursuance of a  
 403 decree of the said Circuit Court of the United States entered into November 7, 1894, the foreclosure sale had under said decree on the 18th day of December, 1894, and the supplemental decree of said court entered February 7, 1895; the said railway property being all the railway property heretofore owned and operated by a corporation known as the Des Moines, Northern & Western Railway Company.

Be it Further Resolved, that the said Des Moines, Northern & Western Railroad Company shall issue, deliver and pay to the said G. M. Dodge, F. M. Hubbell and F. C. Hubbell as the consideration for the said property hereinbefore described as follows, to-wit:

1st. \$2,915,000 par value of the first mortgage gold bonds of this company, dated January 1, 1895, payable twenty years after date, with interest at the rate of four per centum per annum, payable semi-annually; said bonds to be secured by a trust mortgage upon all of the property of the company, whether now in existence or hereafter acquired; which trust mortgage shall be of the form that may hereafter be ordered or approved by the Board.

2nd. \$4,372,500 par value of the capital stock of this company said stock to be full paid and nonassessable.

3rd. As a further consideration, this company having received all the current income of the property now acquired it shall assume the current obligations of the Des Moines, Northern & Western Railway Company and said Purchasing Committee, incurred in the operation of said property, expressly excluding, however, from said assumption all claims for damages, either to persons or property, that may now or hereafter exist against the said Des Moines, Northern & Western Railway Company.

4th. This company shall purchase of the bonds so to be issued to the said G. M. Dodge, F. M. Hubbell and F. C. Hubbell, Purchasing Committee \$13,000 par value being bonds Nos. 2903 to 2915 both inclusive at par, the said bonds having been issued to the said Purchasing Committee on account of interest from July 1st, 1894, to January 1st, 1895, due on bonds numbered 1 to 650, both inclusive issued by the said Des Moines, Northern & Western Railway Company.

Be It Further Resolved, that upon the delivery to this company of a proper deed of conveyance from the said G. M. Dodge, F. M. Hubbell and F. C. Hubbell, Purchasing Committee the aforesaid bonds and stock shall be delivered to said Purchasing Committee and the aforesaid assumptions and agreements immediately come into full force and effect.

A. B. Cummins moved the adoption of the said resolution, which upon motion was seconded by H. D. Thompson, and after being considered was adopted by the unanimous votes of all the directors of the company and declared by the presiding officer to have been duly and legally carried and adopted.

A. B. Cummins offered a further resolution as follows, to-wit:

Be It Further Resolved, that the Des Moines, Northern  
405 & Western Railroad Company shall execute, acknowledge, and deliver to the Metropolitan Trust Company of the City of New York as Trustee, a trust mortgage, which mortgage shall convey under the usual terms and conditions and according to the form now submitted to the Board and approved by it, all its railroad extending from Farnham street in the city of Des Moines, county of Polk and state of Iowa, through the counties of Polk, Dallas, Guthrie, Greene, Calhoun, and Pocahontas, Iowa, to Fonda in said last named county, and also extending from Clive in said county of Polk, and thence through the counties of Polk, Dallas and Boone to the city of Boone in said last named county, together with all its real estate necessary for and used in the operation of said lines of railroad, the rights of way, road bed, bridges, tracks, side tracks, turnouts, switches, buildings and structures, water tanks, and fixtures, shops, engine and other houses, depots, turn tables, engines, cars and machinery, also together with all its corporate and other franchises, rights, privileges and immunities, rents, issues, tolls and earnings; also all its property of whatsoever name, nature or description that may hereafter be acquired; also a one-fourth interest in the capital stock of the Des Moines Union Ry. Company, it being the intent to convey in said trust mortgage all the railroad property of said company and all things appurtenant thereto, or used in connection therewith, whether now  
406 acquired and owned or hereafter acquired and owned by the said Des Moines, Northern & Western Railroad Company.

The said mortgage shall be executed to secure the issuance of a series of bonds of one thousand dollars (\$1000) each, dated January 1st 1895, payable twenty (20) years after date in gold coin of or equal to the present standard of value with interest payable semi-annually in like gold coin at the rate of four (4) per cent. per annum. Said mortgage shall provide that of said series of bonds \$2,915,000 par value, shall be immediately executed by the said Railroad Company, certified by the Trustee, and delivered to G. M. Dodge, F. M. Hubbell, and F. C. Hubbell, Purchasing Committee, as a part of the consideration of the railway property this day purchased of the said Purchasing Committee.

It shall further provide that additional bonds aggregating exclusive of interest, \$2,500,000, par value, may be issued upon the following conditions:

## THE DES MOINES UNION RY. CO., ET AL.

a. For the actual cost of extensions or branches, whether acquired by construction or purchase, not to exceed \$15,000 par value per mile of completed and equipped main track of such extensions or branches.

b. For the actual cost of the additional main track if it shall become necessary to construct a double track, not exceeding \$10,000 per mile, par value, of such additional main track.

c. For the actual cost of additional locomotives, cars  
407 and other equipment purchased by the Railroad Company, not exceeding, however, in all for such additional locomotives, cars and other equipment, \$50,000 par value.

d. For the actual cost of additional side tracks, as from time to time shall be authorized by the Board of Directors.

All of such additional bonds to be executed, issued and certified as provided in said trust mortgage.

The President and the Secretary of the Company are hereby directed, empowered and authorized to execute, acknowledge, seal and deliver the said mortgage and to do whatsoever may be proper or necessary to carry this resolution into effect.

Resolved Further, that the President and the Secretary of the Company be and they are hereby authorized to duly execute seal and issue said bonds so to be delivered to said Purchasing Committee aggregating \$2,915,000 and to procure the certification of the same by the said Metropolitan Trust Company of the City of New York, Trustee and cause the same to be delivered to the said G. M. Dodge, F. M. Hubbell, and F. C. Hubbell, Purchasing Committee.

A. B. Cummins moved the adoption of said resolution, seconded by H. D. Thompson, and after consideration it was submitted to the Directors and unanimously adopted, and thereupon the Chairman declared that said resolution had been adopted by the unanimous vote of all of the Directors of the corporation.

Whereupon, A. B. Cummins offered the following resolution, to-wit:

Resolved, that there be issued and delivered to G. M. Dodge, F. M. Hubbell, and F. C. Hubbell, Purchasing Committee,  
408 capital stock of this Company aggregating \$4,372,500, par value, as part consideration of the railway property this day purchased by the Company from said Purchasing Committee.

And it is hereby declared that said stock is full paid and nonassessable. The President and the Secretary are hereby directed empowered, and authorized to sign, seal and deliver to said G. M. Dodge, F. M. Hubbell, and F. C. Hubbell, Purchasing Committee, a certificate, or certificates for such shares of capital stock and to do whatever may be proper or necessary to carry into effect this resolution.

A. B. Cummins moved the adoption of said resolution, seconded by H. D. Thompson, and after consideration it was submitted to the Directors and unanimously adopted and thereupon the Chairman declared that said resolution had been adopted by the unanimous votes of all the Directors of the corporation.

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### **Defendants' Exhibit 216.**

#### **Des Moines, Northern & Western Railway Company.**

Stockholders, Des Moines, Iowa, March 5, 1895.

Special meeting of the Stockholders of the Des Moines Northern & Western Railroad Company, held at its office in Des Moines Iowa, March 5th, 1895.

Present, F. M. Hubbell, F. C. Hubbell, H. D. Thompson, A. B. Cummins and G. M. Dodge, F. M. Hubbell and F. C. Hubbell Purchasing Committee, President F. M. Hubbell, Presiding.

Upon call it appeared that all persons owning or having any interest in the capital stock of the Des Moines Northern & Western Railroad Company were present or represented at the meeting.

Whereupon, A. B. Cummins, offered the following resolution: and moved its adoption.

Whereas the Board of Directors of this Company did at its meeting held on the 5th, day of March, 1895, unanimously adopt the following resolution:

**Be It Resolved:** That the Des Moines, Northern & Western Railroad Company purchase of G. M. Dodge, F. M. Hubbell and F. C. Hubbell Purchasing Committee, all those certain lines of railroad and all that railway property together with franchises and appurtenances more particularly described as follows, to-wit:

A certain line of railroad extending from Farnham Street in the City of Des Moines, Polk County, Iowa, through the Counties of Polk, Dallas, Guthrie, Greene, Calhoun, and  
410 Pocahontas, to Fonda in the said last named county; and also extending from Clive in the County of Polk

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through the Counties of Polk, Dallas and Boone to Boone in the County of Boone and State of Iowa; together with all the real estate necessary for and used in the operation of said lines of railroad, the rights of way, road bed, bridges, tracks, sidetracks, turnouts, switches, buildings and structures water tanks and fixtures, shops, engine and other houses, turn-tables, engines, cars and machinery; also all the franchises, rights and privileges and immunities connected with, appurtenant to or used in the operation of the railway property hereinbefore described; also all the rents, issues, tolls and earnings now in the possession of the grantors, and arising from the use and operation of said property; also a one-fourth interest in the capital stock of the Des Moines Union Railway Company; the intent being to acquire by such purchase the full and absolute title of the said railroad lines as they now exist, with all their appurtenances and incidents, as received from the said Purchasing Committee by a deed of conveyance executed and delivered by Geo. F. Henry, Commissioner of the United States Circuit Court within and for the Southern District of Iowa, dated on the 8th day of February, 1895, and which deed of the said commissioner was made in pursuance of a decree of the said Circuit Court of the United States entered November 7th, 1894, and the foreclosure sale had under said decree on the 18th day of December, 1894, and the supplemental decree of said court entered February 7th, 1895; the said railway property being all the railway property heretofore owned and operated by a corporation known as the Des Moines, Northern & Western Railway Company.

Be It Further Resolved: That the said Des Moines, Northern & Western Railroad Company shall issue, deliver and pay to the said G. M. Dodge, F. M. Hubbell and F. C. Hubbell as the consideration for the said property hereinbefore described as follows, to-wit:

1st. \$2,915,000. par value, of the first mortgage gold bonds of this Company, dated January 1st, 1895, payable twenty years after date, with interest at the rate of four per cent. per annum payable semi-annually; said bonds to be secured by a trust mortgage upon all the property of the Company, whether now in existence or hereafter acquired; which trust mortgage shall be of the form that may hereafter be ordered or approved by the board.

2nd. \$4,372,500. par value of the capital stock of this Company, said stock to be full paid and non-assessable.

3rd. As a further consideration, this Company having received all the current income of the property now acquired, it shall assume the current obligations of the Des Moines, Northern & Western Railway Company and said Purchasing Committee incurred in the operation of said property, expressly excluding, however, from said assumption all claims for damages, either to property," or persons that may now or hereafter exist against the said Des Moines Northern & Western Railway Company.

4th. This Company shall purchase of the bonds so to be issued to the said G. M. Dodge, F. M. Hubbell and F. C. 412 Hubbell, Purchasing Committee, \$13,000. par value, being bonds numbered 2903 to 2915 inclusive at par, the said bonds having been issued to the said Purchasing Committee on account of interest from July 1st 1894 to January 1st 1895, due on bonds numbered 1 to 650 both inclusive, issued by the said Des Moines, Northern & Western Railway Company.

Be It Further Resolved: That upon the delivery to this Company of a proper deed of conveyance from the said G. M. Dodge, F. M. Hubbell and F. C. Hubbell, Purchasing Committee, the aforesaid bonds and stock shall be delivered to said Purchasing Committee and the aforesaid assumptions and agreements immediately come into full force and effect, and

Whereas at the same meeting said Board also adopted the following further resolution:

Be It Resolved: That the Des Moines, Northern & Western Railroad Company shall execute acknowledge and deliver to the Metropolitan Trust Company of the City of New York as Trustee, a Trust Mortgage which mortgage shall convey under the usual terms and conditions and according to the form now submitted to the Board and approved by it, all its railroad extending from Farnham Street in the City of Des Moines, County of Polk and State of Iowa, through the Counties of Polk, Dallas, Guthrie, Greene, Calhoun and Pocahontas Iowa to Fonda in said last named County, and also extending from Clive in said County of Polk and thence through the Counties 413 of Polk, Dallas and Boone to the City of Boone in said last named County, together with all its real estate necessary for and used in the operation of said lines of railroad, the rights of way, road bed, bridges, tracks, sidetracks, turn-outs, switches, buildings, and structures, water tanks and fixtures, shops, engine and other houses, depots, turntables, engines, cars and machinery, also together with all its corporate and other franchises, rights, privileges and immunities,

rents, issues, tolls and earnings; also all its properties of whatsoever name, nature or description that may hereafter be acquired; also a one-fourth interest in the capital stock of the Des Moines Union Railway Co., it being the intent to convey in said Trust Mortgage all the railroad property of said Company and all things appurtenant thereto or used in connection therewith, whether now acquired and owned or hereafter acquired and owned by the said Des Moines Northern & Western Railroad Company.

The said mortgage shall be executed to secure the issuance of a series of bonds of One Thousand Dollars (\$1000.) each, dated January 1st, 1895, payable twenty (20) years after date in gold coin of or equal to the present standard of value with interest payable semi-annually in like gold coin at the rate of four (4) per cent per annum. Said mortgage shall provide that of said series of bonds, \$2,915,000. par value shall be immediately executed by the said railroad company, certified by the Trustee and delivered to G. M. Dodge, F. M. Hubbell and F. C. Hubbell, Purchasing Committee as a part of the consideration of the railway property this day purchased of the said Purchasing Committee.

414 It shall further provide that additional bonds aggregating, exclusive of interest, \$2,500.00. par value, may be issued upon the following conditions:

A. For the actual cost of extensions or branches, whether acquired by construction or purchase, not to exceed \$15,000. par value per mile of completed and equipped main track of such extensions or branches.

B. For the actual cost of the additional main track, if it shall become necessary to construct a double track not exceeding \$10,000. per mile par value of such additional main track.

C. For the actual cost of additional locomotives, cars and other equipment purchased by the railroad company, not exceeding however in all of such additional locomotives, cars and other equipment \$50,000. par value.

D. For the actual cost of additional sidetracks as from time to time shall be authorized by the Board of Directors.

All of such additional bonds to be executed, issued and certified as provided in Trust Mortgage.

The President and the Secretary of the Company are hereby directed, empowered, and authorized to execute, acknowledge, seal and deliver the said mortgage and to do whatsoever may be proper or necessary to carry this resolution into effect,

Resolved Further, That the President and the Secretary of the Company be, and they are hereby authorized to duly execute seal and issue said bonds so to be delivered to said Purchasing Committee, aggregating \$2,915,000. and to procure the certification of the same by the said Metropolitan Trust Company of the City of New York, Trustee, and cause the same to be delivered to the said G. M. Dodge, F. M. Hubbell and F. C. Hubbell, Purchasing Committee."

Now Therefore Be It Resolved, By the Stockholders of the Des Moines, Northern & Western Railroad Company being all here present, or duly represented that the above and foregoing resolutions be and the same are hereby ratified, approved and confirmed.

The motion to adopt the resolution so offered by Mr. Cummins, was duly seconded and upon being submitted received the affirmative votes of all present and represented.

Whereupon, The President declared that the resolution had been duly adopted by the votes of all the stockholders and those interested in the stock of the Des Moines Northern & Western Railroad Company.

Whereupon, upon motion the meeting of the stockholders adjourned.

A. N. DENMAN,  
Secretary

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### Defendants' Exhibit 217.

#### Des Moines, Northern & Western Railway Company.

Regular Monthly Meeting of the Directors of the Des Moines, Northern & Western Railroad Company, held December 8th 1896. There were present—

F. M. Hubbell, F. C. Hubbell, H. D. Thompson, and A. B. Cummins.

The contract entered into by and between the Des Moines Union Railway Co. and the Chicago Great Western Railway Co. dated July 2nd 1896 was presented to the Directors for their approval, and thereupon H. D. Thompson offered the following resolution, viz:

Resolved that the contract bearing date July 2nd 1896 entered into by and between the Des Moines Union Railway Company and the Chicago Great Western Railway Company, which contract has been signed by their respective Presidents and Secretaries, be and the same is hereby consented to, ratified, and confirmed on the part of the Des Moines, Northern &

Western Railroad Co., and the Secretary of this Company is hereby authorized to attach to said contract a certified copy of this resolution.

There being no further business before the Board, the meeting adjourned.

Approved,

F. M. HUBBELL,  
President.

A. N. DENMAN,  
Secretary.

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### **Defendants' Exhibit 218.**

#### **Des Moines, Northern & Western Railway Company.**

Des Moines, Iowa, Sept. 7, 1897.

Minutes of the Regular Monthly Meeting of the Directors of the Des Moines, Northern & Western Railroad Company, held at the office of the President of the Company September 7th 1897.

There were present, F. M. Hubbell, F. C. Hubbell, H. D. Thompson and A. B. Cummins.

President F. M. Hubbell, presiding:

The contract entered into by and between the Des Moines Union Railway Company, the Wabash Railroad Company, and the Des Moines Northern & Western Railroad Company, July 31st 1897 was presented to the Directors present, for approval, and thereupon H. D. Thompson offered the following resolution, viz;

"Resolved, that the contract bearing date July 31st, 1897, entered into by and between the Des Moines Union Railway Company, the Wabash Railroad Company, and the Des Moines, Northern & Western Railroad Company, which contract has been signed by their respective Presidents and Secretaries, and which embraces seventeen (17) pages, be and the same is hereby ratified, approved and in all respects confirmed on part of the Des Moines, Northern & Western Railroad Company, and the Secretary of this Company is hereby authorized to attach to said contract a certified copy of this resolution."

There being no further business before the Board, the meeting adjourned.

A. N. DENMAN, Secretary.

**Defendants' Exhibit 219.****Des Moines, Northern & Western Railroad Company.**

Stockholders' Meeting. Des Moines, Ia., January 5, 1899.

Pursuant to Article Eight of the Articles of Incorporation of this Company, the Annual Meeting of the Stockholders was held at the office of the Company in the City of Des Moines, Iowa at 11 o'clock A. M. of Thursday, the 5th day of January 1899.

The President of the Company acted as President of the meeting, and the Secretary of the Company acted as Secretary of the meeting.

The Secretary laid before the meeting the following list of stockholders of the Company showing the number of shares held by them, and each of them on this day, which list is as follows, to-wit:

Chicago, Milwaukee & St. Paul Railway Company.....	32,904 Shares
Collins, W. G.....	1 Share
Cummins, A. B.....	465 Shares
Earling, A. J.....	1 Share
Goodnow, C. A.....	1 Share
Hansen, Burton.....	1 Share
Hubbell, F. C.....	1 Share
Hubbell, F. M.....	1 Share
Miller, Roswell.....	2 Shares
Miller, Roswell, Trustee.....	10,232 Shares
Myers, P. M.....	1 Share
Thompson, H. D.....	1 Share
Warfield, W. R.....	24 Shares
Total.....	43,725 Shares

420 and the roll being called it appeared that there were present in person and by proxy the holders of 43,235 shares out of a total issue of 43,725 shares of the capital stock of the Company.

On motion of Mr. Earling, duly seconded, the Secretary was directed to read, for the information of the Stockholders, the record of the acts and doings of the Board of Directors since the last annual meeting of the Stockholders and the same having been read, it was on motion duly seconded,

Resolved, that all the acts and doings of the Board of Directors and of the Officers of this Company had and taken since the last annual meeting of the Stockholders, as set out in the minutes of the Board and now read in our hearing, be and the same are hereby, in all things, ratified, approved and confirmed as the acts and doings of this corporation.

On motion duly seconded, it was Resolved, to proceed by ballot to the election of seven (7) Directors to hold their offices for one year, or until their successors are elected and qualified, and that Mr. H. D. Thompson be appointed Teller to receive and count the votes. And a ballot being taken, the Teller reported that W. G. Collins, A. J. Earling, C. A. Goodnow, Burton Hanson, F. M. Hubbell, F. C. Hubbell, and P. M. Myers had each received 43,235 votes, being all the votes cast at said election, and thereupon, the President declared the above named gentlemen duly elected Directors of this Company to hold office for the term of one year, or until their successors are elected and qualified.

And there being no further business to come before  
421 the meeting the Stockholders adjourned sine die.

Attest: Cyrus Kirk, F. M. HUBBELL, President.  
Secretary.

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### Defendants' Exhibit 220.

#### Des Moines, Northern & Western Railway Company.

#### Special Meeting of Directors.

Chicago, Illinois, April 24, 1899.

Pursuant to the call of the President and to notice duly given, a special meeting of the Board of Directors was held at the office of the President in the Old Colony Building, in this city, at 2.30 o'clock P. M. of this day.

And there were present Messrs. Collins, Earling, Goodnow, Hanson, and Myers, ..... 5

And absent Messrs. F. M. Hubbell and F. C. Hubbell.... 2

The President, having taken the chair, the minutes of the last meeting were read and approved.

The President stated to the Board that the Wabash Railroad Company is the holder of five hundred (500) shares of the capital stock of the Des Moines Union Railway Company and is, together with this Company, the signer of two certain contracts with said Des Moines Union Railway Company, one of which contracts is dated the tenth day of May, 1889, and the other the thirty first day of July, 1897, and both relate to the use of the facilities of said Des Moines Union Railway and to the manner of transferring the stock of said Company which may be held either by the Wabash Company or by this Company.

That the Wabash Company has requested this Company and the Des Moines Union Railway Company to sign a written consent permitting the Wabash Company to pledge its stock in and contracts with the Des Moines Union Railway Company to the Continental Trust Company, as Trustee of a certain mortgage which said Wabash Company executed to it on or about the first day of January 1899, to secure certain bonds in said mortgage, particularly described.

That this consent was executed by the Des Moines Union Railway Company and by the officers of this Company and he asked the Board to direct that the consent be entered upon the minutes and that the act of the officers of this Company in signing it, be ratified and approved.

Whereupon, on motion duly seconded, it was unanimously

Resolved That this Board does hereby ratify, approve and confirm the action of the President and Secretary of this Company in executing, together with the Des Moines Union Railway Company, the following "Consent"—

Whereas on or about the tenth day of May, 1889, the Des Moines Union Railway Company as party of the first part, entered into a contract with the Des Moines and St. Louis Railroad Company, the Des Moines & Northwestern Railway Company, and the St. Louis, Des Moines and Northern Railway Company, as parties of the second part, wherein and whereby said first party granted to said second parties the right to use, upon the terms and conditions therein set forth, the tracks, stations and terminal properties of said first party in and near the city of Des Moines in the State of Iowa, and

Whereas the Des Moines and Northwestern Railway Company and the St. Louis, Des Moines and Northern Railway Company have ceased to own or operate the respective railroads that were owned and operated by them at the time said contract was made, and the Des Moines, Northern and Western Railroad Company has become the owner of and now operates the lines of railroad which were formerly owned and operated by the said Des Moines and Northwestern Railway Company and the St. Louis, Des Moines and Northern Railway Company, and

Whereas, on or about the 31st day of July, 1897, said contract was by an agreement of that date, ratified, confirmed and adopted, as a contract between said Des Moines Union Railway Company, the Wabash Railroad Company, and the Des Moines, Northern and Western Railroad Company, and

Whereas in a certain mortgage, made by the Wabash Railroad Company to the Continental Trust Company of the

of New York, dated on or about the first day of January, 1899, the Wabash Railroad Company, to secure the bonds in said mortgage described, has granted and conveyed to said Trust Company the Des Moines and St. Louis Railroad, extending from the city of Des Moines to Albia, in the State of Iowa, and all its leasehold rights and privileges to the use and enjoyment of the tracks, stations, and terminal properties of the Des Moines Union Railway Company, in or near said City of Des Moines, including also the rights and interest of the Wabash Railroad Company in and to said terminal contract, dated the 21st day of July, 1897, and in and to said other contract, dated the 10th day of May, 1899; and

Whereas, it is provided in said mortgage that both said  
425 contracts shall be deposited with and assigned to the Continental Trust Company of the City of New York, by the Wabash Railroad Company, and that such assignment of said contracts shall be made with consent of said Des Moines Union Railway Company and with the consent of said Des Moines, Northern and Western Railroad Company, as the assignee or successor of the Des Moines and Northwestern Railway Company and of the St. Louis, Des Moines and Northern Railway Company; and

Whereas the Wabash Railroad Company has also in its said mortgage granted and conveyed to said Continental Trust Company, of the City of New York, five hundred shares of the capital stock of said Des Moines Union Railway Company of the par value of one hundred dollars each; and

Whereas it is provided in said mortgage that the Wabash Railroad Company shall deposit with, or cause to be delivered to and deposited with said Continental Trust Company, of the City of New York, duly endorsed in blank, said five hundred shares of the capital stock of the said Des Moines Union Railway Company, and shall also file, with said Trust Company, the consent of the Des Moines Union Railway Company, and the consent of the Des Moines, Northern and Western Railroad Company to said assignment or mortgage to said Continental Trust Company, of said five hundred shares of the capital stock of the Des Moines Union Railway Company;

Now Therefore, in consideration of the premises, the Des Moines Union Railway Company, and the Des Moines, Northern and Western Railroad Company, and each of them, do hereby  
426 consent to any assignment that has been made or that may be hereafter made, by the Wabash Railroad Company of said two contracts, and of its rights under the same, to the Continental Trust Company of the City of New

York, as provided for in said mortgage and said Des Moines Union Railway Company and said Des Moines, Northern and Western Railroad Company have consented, and do hereby consent, to all assignments or conveyances that have been made, or that may be hereafter made, by the Wabash Purchasing Committee, to the Wabash Railroad Company, or that have been made or may be hereafter made, by the Wabash Railroad Company to the Continental Trust Company of the City of New York, of said five hundred shares of stock in accordance with the term of said mortgage and in order to give effect to its provisions.

In testimony whereof the Des Moines Union Railway Company and the Des Moines, Northern and Western Railroad Company have herewith subscribed their corporate names by their respective Presidents, and caused these presents to be attested by their corporate seal this 14th day of March A. D. 1899.

**DES MOINES UNION RAILWAY  
COMPANY,**

By (Signed) H. D. Thompson,  
Vice-President.

Attest:

(Signed) F. M. Hubbard,  
Secretary.

**THE DES MOINES, NORTHERN  
& WESTERN RAILROAD CO.**

By (Signed) A. J. Farling,  
President.

Attest:

(Signed) P. M. Myers,  
Secretary.

427 The President laid before the Board the following preamble and resolutions adopted by the Board of Directors of the Chicago, Milwaukee & St. Paul Railway Company, at their meeting held in the City of New York on the ninth day of March, 1899, which preamble and resolutions are as follows:

"Whereas the Des Moines, Northern & Western Railroad Company owns and operates a line of railroad commencing in the City of Des Moines, Polk County, Iowa, and extending thence in a general northwesterly direction, via Clive, in said County, to Fonda, in Pocahontas County, and also a line of railroad commencing at Clive, and thence extending in a northerly direction to Boone, in Boone County, all in the State of Iowa, the aggregate length of said lines of railroad being about 150 miles, and

Whereas, the said Des Moines, Northern & Western Railroad Company has issued, and there are now outstanding, 43,725 shares of One Hundred Dollars (\$100) each of its capital stock, and its railroad and property are encumbered by a mortgage debt consisting of two thousand, nine hundred and thirty-three (2,933) bonds of One Thousand Dollars (\$1,000) each, due January 1st, 1915, and bearing interest at four per cent (4%) per annum, payable semi-annually, both interest and principal payable in gold, and

Whereas this Company is the owner of 43,724 out of the above mentioned 43,725 shares of capital stock and of 2,932 out of the above mentioned 2,933 bonds, and has paid therefor the sum of \$2,462,511.95; and

Whereas, the lines of railroad of the said Des Moines, Northern & Western Railroad Company intersect and are connected with the Chicago & Council Bluffs Division of the railway of this Company, at Madrid and at Herndon, in said State of Iowa, and by reason of such connections form a through line reaching the principal cities and towns in said State and States adjacent; and

Whereas, it is for the interest of this Company, and of the public that the said lines of the Des Moines Northern & Western Railroad should be owned and operated by this Company, and that to this end, the said Des Moines, Northern & Western Railroad Company should sell and convey and transfer by deed, to the Chicago, Milwaukee & St. Paul Railway, all its railroad and property, and every part thereof, and all its rights, franchises, licenses, privileges, and immunities, of every kind, howsoever derived; and the said Des Moines, Northern & Western Railroad Company is authorized and empowered, under the laws of the State of Iowa, to make such sale and to execute and deliver such conveyance as aforesaid;

Now Therefore, be it

Resolved, that the Des Moines, Northern & Western Railroad Company be, and is hereby requested to sell and convey to this Company all its railroad and property and for this purpose to make, execute and deliver, through its proper officers, a good and sufficient deed of conveyance, conveying and transferring to this Company all its railroad and property of every name and nature, wheresoever situated, and all its rights, franchises, licenses, privileges, and immunities of every kind, howsoever derived, in consideration of the sum of One Dollar and of the cancellation and surrender by this Company of all the above mentioned mortgage bonds of the Des Moines, Northern & Western Railroad Company, amounting

in the aggregate to the sum of \$2,933,000, with the interest due thereon, and of the payment of all other lawful debts of said Company; and this Company hereby agrees that, upon the delivery to it of such deed, it will cancel and surrender the said mortgage bonds and will assume and pay all other lawful debts of said Des Moines, Northern & Western Railroad Company, and hold said Company free and clear and harmless therefrom; and

Resolved That the officers of this Company be, and they are hereby authorized and directed to accept such deed for and on behalf of this Company, and to cause the same to be duly recorded, and when so recorded, to be filed with the muniments of title of this Company".

And the same having been read and duly considered, it was, on motion duly seconded, unanimously

Resolved, That the offer of the Chicago, Milwaukee & St. Paul Railway Company, to purchase the railroad and property of this Company, as set out in the foregoing preamble, and resolutions, be and is hereby accepted; and that the President and Secretary of this Company be, and they are hereby directed, to make and execute a proper deed of conveyance, under the seal of this Company, conveying to the Chicago, Milwaukee & St. Paul Railway Company, its successors and assigns, all the railroad and property of this Company, of every name and nature, wheresoever situated, and all its rights, franchises, licenses, privileges and immunities of every kind, howsoever derived, in consideration of the sum of One Dollar and of the cancellation and surrender by the said Chicago, Milwaukee & St. Paul Railway Company, of all the mortgage bonds of this Company now outstanding, amounting in the aggregate to the sum of \$2,933,000, with the interest due thereon, and of the payment of all other lawful debts of this Company; and

Resolved, That a meeting of the Stockholders of this Company be called to be held at its office in the City of Des Moines, Iowa, at 12 o'clock noon, of Monday, the 8th day of May, 1899; and that these resolutions and said deed be presented to said meeting, and if the same be approved by said Stockholders, then the officers of this Company are directed, to deliver the deed aforesaid to the said Chicago, Milwaukee & St. Paul Railway Company.

On motion, duly seconded, it was unanimously

Resolved, That Article 1 of the By-Laws be, and the same is hereby repealed; and that in place thereof there be inserted;—

Article 1.

"At all the meetings of the stockholders, each stockholder shall, as provided in the Articles of Incorporation, be entitled to one vote for each share of stock held and owned by him, as appears by the books of the Company at the time of such meeting".

431 And there being no further business to come before the Board at this time, on motion, duly seconded, the Directors adjourned sine die.

Attest,

P. M. MYERS, Secy.

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**Defendants' Exhibit 221.**

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**Des Moines, Northern & Western Railway Company.**

Special Meeting of Directors. Chicago, Illinois May 5, 1899.

Pursuant to the call of the President, a special meeting of the Board of Directors was held at the office of the Company in the Old Colony Building, in this city, at 4:30 o'clock P. M. of this day.

And there were present Messrs. Earling, Goodnow, Hanson, Miller and Myers, ..... 5

And absent Messrs. Keeler and Collins, ..... 2

The President, having taken the chair, on motion, duly seconded, the reading of the minutes of the last meeting was dispensed with.

Mr. Miller stated to the Board that all the mortgage bonds which had been executed by the officers of this Company, amounted to the sum of \$3,000,000; that of this sum \$13,000 in bonds had been taken up, paid, and cancelled by this Company and are now in its possession; that \$54,000 in bonds remained in the hands of the Metropolitan Trust Company, trustee of the mortgage, having never been issued to or by this Company, and that \$2,933,000 in bonds were now held by the Chicago, Milwaukee & St. Paul Railway Company.

That the St. Paul Company proposed to surrender these bonds to the trustee for the purpose of cancellation and destruction, and to procure a release of the mortgage of January 1st, 1895, in consideration of the conveyance which  
433 this Company proposes to make of its railroad and property to the St. Paul Company; but that the Trust Company declined to make the release without a resolution of the Board of Directors of this Company, authorizing and

requesting the trustee to cancel and destroy the bonds and to release the mortgage.

And thereupon he offered the following preamble and resolutions, which, being duly seconded, were unanimously adopted and are as follows;

Whereas, on the seventh day of March, 1895, this Company made and executed, under its corporate seal, to the Metropolitan Trust Company, of the City of New York, as Trustee, a certain mortgage deed of trust, bearing date January 1st, 1895, to secure the issue of not exceeding \$5,415,000 in amount of bonds bearing even date with said mortgage, and payable twenty (20) years after said date, and bearing interest at the rate of four per cent per annum, payable semi-annually on the first day of January and July of each year; which said bonds were to be issued upon certain terms and conditions particularly set forth in said mortgage, to which mortgage reference is hereby made for greater certainty; and

Whereas, on the sixteenth day of March, 1895, the Metropolitan Trust Company, of the city of New York, the trustee therein named, duly accepted said trust, and thereafter caused said mortgage to be duly recorded according to law as follows; to-wit;

In the office of the Recorder of Polk County, Iowa, on the 20th day of March, 1895, in Book 316, on Page 254, of 434 Polk County Records, and

In the office of the Recorder of Guthrie County, in said State, on said 20th day of March, in Book 96, on pages 37 to 44, inclusive, of Guthrie County Records; and

In the office of the Recorder of Greene County, in said State, on the 21st day of March, 1895, in Book 39 of Land Mortgages, on page 523 of Greene County Records; and

In the office of the Recorder of Calhoun County, in said State, on said 21st day of March, in Book 37, of Mortgages, on page 359 of Calhoun County Records; and

In the office of the Recorder of Pocahontas County, in said State, on the 22nd day of March, 1895, in Book 28 of Mortgages on page 341, of Pocahontas County Records; and

In the office of the Recorder of Boone County in said State, on said 22nd day of March, in Book 82, on page 620 of Boone County Records; and

In the office of the Recorder of Dallas County, in said State, on the 23rd day of March, 1895, in Book of Mortgage Records, 128, on page 402, of Dallas County Records.

Being all the places where said mortgage was required by law to be recorded; and

Whereas, only \$3,000,000 in amount of said bonds were executed by the officers of this Company and delivered to said trustee for its counter-signature, as required in said mortgage; and

Whereas, of the said \$3,000,000 so as aforesaid delivered to said trustee, \$2,915,000 in amount, being bonds numbered 1 to 2915, both inclusive, were countersigned by said trustee, and delivered to this Company shortly after the execution and recording of said mortgage; and subsequently, and in the year 1898, \$31,000 in amount of said bonds, —being numbered 2916 to 2940, both inclusive, and 2960 to 2965, both inclusive—were also countersigned by said Trustee and delivered to this Company, making in all \$2,946,000 of bonds so countersigned and delivered; and

Whereas there are now in the hands of said trustee bonds issued under said mortgage—numbered 2941 to 2959 both inclusive, and 2966 to 3000, both inclusive—making in all \$54,000 of said bonds so in the hands of said trustee; and

Whereas of the said \$2,946,000 in amount of the bonds so as aforesaid executed, countersigned and delivered to it, this Company has taken up, paid, and cancelled \$13,000 in amount of said bonds—being bonds numbered 2903 to 2915, both inclusive—and now has the same in its possession, and there are now outstanding in the hands of the public, bonds to the amount of \$2,933,000; and

Whereas this Company desires that all of said \$3,000,000 of bonds so as aforesaid executed by it, be cancelled and destroyed by said trustee, and that said mortgage of January 1st, 1895, be discharged of record;

Now, Therefore, be it

Resolved, That the said Metropolitan Trust Company, of the City of New York, Trustee, as aforesaid, be and is hereby authorized and requested to immediately cancel and destroy \$54,000 in amount of bonds heretofore issued by this Company, and hereinabove referred to and now in the hands of said Trustee, whether said bonds, or any of them, are or are not countersigned by said trustee, and also to cancel and destroy the said \$13,000 in bonds heretofore paid by this Company and which are now tendered to said Trustee for this purpose, and

Resolved, That whenever and as soon as the remaining \$2,933,000 in amount of the bonds issued by this Company, and

hereinabove referred to, and now outstanding, are presented to it, the said trustee is hereby authorized and requested to cancel and destroy all of said bonds and all coupons thereto belonging, whether said coupons are paid or unpaid, and thereupon to make and execute a proper release of the aforesaid mortgage, dated January 1st, 1895, and to deliver said release to Mr. Frank S. Bond, of the city of New York, to the end that said release may be recorded and said mortgage discharged of record in all the offices in which the same was recorded as aforesaid; and

Resolved, That the Secretary of the Company be and is hereby directed to send a certified copy of the foregoing preamble and resolutions to said Metropolitan Trust Company, of the City of New York.

The President stated that the contract between this Company and the United States Express Company could now be terminated at any time by thirty days notice, and in view of the fact that the road of this Company would be acquired by the St. Paul Company on the eighth instant, he suggested that notice should be given to the Express Company of  
437 the desire of this Company to terminate the contract at the expiration of thirty days.

Whereupon, on motion, duly seconded, it was

Resolved, That the Secretary be and is hereby directed to notify the United States Express Company, through Mr. C. H. Crosby, its Vice President, at Chicago, that this Company desires to terminate the existing express contract, at twelve o'clock noon of Thursday, June 8th, 1899.

And there being no further business to come before the meeting, on motion, duly seconded, the Directors adjourned to meet at the call of the President.

Attest: (Signed) P. M. MYERS, Secretary.

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**Defendants' Exhibit 222.****Des Moines, Northern & Western Railway Company.****Special Meeting of Stockholders.****Des Moines, Iowa, May 8th, 1899.**

Pursuant to the call of the Board of Directors and to notice duly given in accordance with Article VIII of the Articles of Incorporation, a special meeting of the Stockholders of this Company was held at its office in the city of Des Moines at 12 o'clock noon of this day.

In the absence of the President and Vice-President, Mr. C. A. Goodnow, was appointed Chairman of the meeting and the Secretary of the Company acted as Secretary thereof.

The Secretary presented a certified list of the stockholders of this Company, showing the number of shares held by them and each of them respectively, which list is as follows:

"Des Moines, Northern and Western Railroad Company.

It is hereby certified that the following is a full, true and complete list of the stockholders of this Company and the number of shares held by them and each of them, as the same appears by the books and records of the Company;

Wallace G. Collins,	1 share,
Albert J. Earling,	1 "
C. A. Goodnow,	1 "
Burton Hanson,	1 "
Charles B. Keeler,	1 "
Roswell Miller,	1 "
Peter M. Myers,	1 "
Chicago, Milwaukee & St. Paul Ry. Company,	43718 "

Total, .....43,725 shares.

439 In Witness Whereof I have hereunto set my hand and affixed the seal of said Company at its office in the City of Milwaukee, Wisconsin, this first day of May, A. D. 1899.

(Seal) P. M. MYERS, Secretary."

And the names of the stockholders having been called, it appeared that every shareholder of the Company was present either in person or by proxy, and that the entire amount (43,725 shares) of the capital stock now outstanding, was represented at the meeting.

The Chairman laid before the meeting the preamble and resolutions adopted by the Board of Directors of the Chicago, Milwaukee & St. Paul Railway Company at their meeting held in the City of New York, on the ninth day of March, 1899, which preamble and resolutions are as follows;

"Whereas the Des Moines, Northern & Western Railroad Company owns and operates a line of railroad commencing in the City of Des Moines, Polk County, Iowa, and extending thence in a general northwesterly direction, via Clive, in said

County, to Fonda, in Pocahontas County; and also a line of railroad commencing at Clive and thence extending in a northerly direction to Boone, in Boone County, all in the State of Iowa, the aggregate length of said lines of railroad being about 150 miles, and

Whereas, the said Des Moines, Northern & Western Railroad Company has issued, and there are now outstanding 43,725 shares of one hundred dollars (\$100) each of its capital stock, and its railroad and property are encumbered by a mortgage debt consisting of two thousand, nine hundred and 440 thirty-three (2,933) bonds, of one thousand dollars (\$1,000) each, due January 1st, 1915, and bearing interest at four per cent (4%) per annum, payable semi-annually both interest and principal payable in gold; and

Whereas, this Company is the owner of 43,724 out of the above mentioned 43,725 shares of capital stock, and of 2,932 out of the above mentioned 2,933 bonds, and has paid therefor the sum of \$2,462,511.95; and

Whereas, the lines of railroad of the said Des Moines, Northern & Western Railroad Company intersect and are connected with the Chicago and Council Bluffs Division of the railway of this Company at Madrid and at Herndon, in said State of Iowa, and by reason of such connections form a through line reaching the principal cities and towns in said State and States adjacent; and

Whereas, it is for the interest of this Company and of the public that the said lines of the Des Moines, Northern & Western Railroad should be owned and operated by this Company, and that to this end, the said Des Moines, Northern & Western Railroad Company should sell and convey and transfer by deed, to the Chicago, Milwaukee & St. Paul Railway Company all its railroad and property, and every part thereof, and all its rights, franchises, licenses, privileges, and immunities of every kind, howsoever derived; and the said Des Moines, Northern & Western Railroad Company is authorized and empowered, under the laws of the state of Iowa, to make such sale and to execute and deliver such conveyance as aforesaid;

Now, Therefore, be it

441 Resolved, That the Des Moines, Northern & Western Railroad Company be and is hereby requested to sell and convey to this Company all its railroad and property, and for this purpose to make, execute and deliver, through its proper officers, a good and sufficient deed of conveyance, con-

veying and transferring to this Company, all its railroad and property of every name and nature, wheresoever situated, and all its rights, franchises, licenses, privileges, and immunities of every kind, howsoever derived, in consideration of the sum of one dollar and of the cancellation and surrender by this Company of all the above mentioned mortgage bonds of the Des Moines, Northern & Western Railroad Company amounting in the aggregate to the sum of \$2,933,000 with the interest due thereon, and of the payment of all other lawful debts of said Company and this Company hereby agrees that, upon the delivery to it of such deed, it will cancel and surrender the said mortgage bonds and will assume and pay all other lawful debts of said Des Moines, Northern & Western Railroad Company and hold said Company free and clear and harmless therefrom, and

Resolved, that the officers of this Company be, and they are hereby authorized and directed to accept such deed for and on behalf of this Company, and to cause the same to be duly recorded, and when so recorded, to be filed with the muniments of title of this Company."

The Chairman further laid before the meeting the resolutions adopted by the Board of Directors, of this Company  
442 at their meeting held in the City of Chicago, on April 24th, ultimo, at which meeting the foregoing preamble and resolutions of the Directors of the Chicago, Milwaukee & St. Paul Railway Company were presented, read, and considered—which resolutions of the Board of Directors of this Company are as follows;

"Resolved, That the offer of the Chicago, Milwaukee & St. Paul Railway Company to purchase the railroad and property of this Company, as set out in the foregoing preamble and resolutions, be and is hereby accepted; and that the President and Secretary of this Company be, and they are hereby directed to make and execute a proper deed of conveyance under the seal of this Company, conveying to the Chicago, Milwaukee & St. Paul Railway Company, its successors, and assigns, all the railroad and property of this Company, of every name and nature, wheresoever situated, and all its rights, franchises, licenses, privileges, and immunities of every kind, howsoever derived, in consideration of the sum of one dollar, and of the cancellation and surrender by the said Chicago, Milwaukee & St. Paul Railway Company of all the mortgage bonds of this Company now outstanding, amounting in the aggregate to the sum of \$2,933,000 with the interest due thereon, and of the payment of all other lawful debts of this Company; and

Resolved, that a meeting of the stockholders of this Company be called to be held at its office in the City of Des Moines, Iowa, at 12 o'clock noon of Monday, the eighth day of May, 1899; and that these resolutions and said deed be presented to said meeting, and if the same be approved by said 443 stockholders, then the officers of this Company are directed to deliver the deed aforesaid to the said Chicago, Milwaukee & St. Paul Railway Company".

The Chairman also submitted to the meeting the form of deed which the officers of this Company had prepared and executed in pursuance of the direction and authority given to them in the next foregoing resolutions of the Board of Directors, which deed is in the words and figures following, to-wit;

"This Indenture, made this first day of May, in the year of our Lord, One Thousand, Eight Hundred and Ninety-nine, by and between the Des Moines, Northern & Western Railroad Company a corporation of the State of Iowa, party of the first part, and the Chicago, Milwaukee & St. Paul Railway Company, a corporation of the State of Wisconsin, party of the second part—Witnesseth;

Whereas, the Des Moines, Northern & Western Railroad Company now owns and operates a certain line of railroad, commencing at the east line of Section Seven (7), Township Seventy-eight (78) North, Range Twenty-four (24) West, in the city of Des Moines, Polk County, Iowa, and thence extending in a general northwesterly direction, via Clive in said County, through the Counties of Polk, Dallas, Guthrie, Greene, Calhoun, and Pocahontas, to Fonda in said last named County; and also a line of railroad extending from Clive, in said County of Polk, through said County to Boone, in the County of Boone; said lines of railroad having an aggregate length of about one hundred and fifty (150) miles, all in the State of Iowa; and

444 Whereas, said lines of railroad connect with the railroad of the said Chicago, Milwaukee & St. Paul Railway Company at Madrid and at Herndon, in said State, and can be operated in connection with said last mentioned railroad conveniently to the public and to the common benefit of both companies, forming a through line reaching the principal cities and towns in said State of Iowa, and States adjacent; and

Whereas the said Des Moines, Northern & Western Railroad Company is indebted to divers parties in the amount of two million, nine hundred and thirty-three thousand dollars of bonds, due January 1st, 1915, and bearing interest at four

per cent per annum payable semi-annually, both interest and principal payable in gold, which said bonds are secured by a mortgage of all its railroads, property, and franchises, executed by the said Des Moines, Northern & Western Railroad Company to the Metropolitan Trust Company, of the City of New York, as Trustee, bearing date the first day of January, 1895; and

Whereas, the said Chicago, Milwaukee & St. Paul Railway Company proposes to purchase said railroads, together with all the equipment, rolling stock, and franchises, and all other property of every name and nature, in anywise appertaining thereto, and in payment therefor to take up, pay, cancel and satisfy all of the above mentioned bonds, with the interest due thereon, and also all other lawful indebtedness of said Des Moines, Northern & Western Railroad Company; and

Whereas, the Des Moines, Northern & Western Railroad Company has, by its Board of Directors, and with the authority and approval of its stockholders, given in the manner prescribed by statute, authorized the sale of all its railroads, and all its property and franchises in anywise appertaining thereto, to the Chicago, Milwaukee & St. Paul Railway Company and has directed this conveyance to be executed on its part by its President and Secretary, and its corporate seal to be affixed thereto by the officers executing the same; and

Whereas the said Des Moines, Northern & Western Railroad Company is authorized and empowered by the laws of the State of Iowa, to make this conveyance and the said Chicago, Milwaukee & St. Paul Railway Company is authorized and empowered by the laws of the States of Wisconsin and Iowa, to receive the same;

Now, Therefore, in consideration of the premises and the sum of one dollar, to it in hand paid, the receipt whereof is hereby acknowledged and confessed, and in further consideration of the undertaking and obligation of the said Chicago, Milwaukee & St. Paul Railway Company to take up, pay, cancel and satisfy all of the above mentioned mortgage bonds, with all the accrued interest thereon, and to pay any and all other just debts of the said Des Moines, Northern & Western Railroad Company the said Des Moines, Northern & Western Railroad Company, party hereto of the first part, does hereby sell and convey unto the said Chicago, Milwaukee & St. Paul Railway Company party hereto of the second part, its successors and assigns, all and singular, the railroad and railway of the party of the first part, commencing at a point in the east line of Section Seven (7)

Township Seventy-eight (78) North, Range Twenty-four (24) West in the city of Des Moines, Polk County, Iowa, and thence extending in a general northwesterly direction, via Clive, in said County, through the Counties of Polk, Dallas, Guthrie, Greene, Calhoun, and Pocahontas, to Fonda, in said last named County, and also extending from Clive, in the county of Polk, through the Counties of Polk, Dallas and Boone, to Boone in the County of Boone, and State of Iowa, in all a distance of about one hundred and fifty miles (150), being the railroads and railways formerly known as the Des Moines, Northern & Western Railroad, including all the railroads, railways, ways, and rights of way; all the depot grounds, and other lands, all the tracks, bridges, viaducts, culverts, turntables, fences, and other structures; all the depots, station houses, engine houses, carhouses, freight houses, woodhouses, coal-houses, elevators and other buildings; and all machine shops and other shops held or acquired for use in connection with the said railroad, or in connection with the business thereof; including the road-bed right-of-way, appurtenances, and all property of every kind and description belonging or appertaining to the railroads hereby conveyed and heretofore belonging to the said Des Moines, Northern & Western Railroad Company; including also, all locomotives, tenders, cars, and other rolling stock and equipment, and all machinery, tools, implements, fuel and materials for the constructing, operating, repairing or replacing of said railway or any

447 part thereof, or any of its equipment or appurtenances and including also, all franchises of said Des Moines, Northern & Western Railroad Company connected with or relating to the said railroads, or to the construction, maintenance, use and operation of the same; together with all and singular the tenements, hereditaments and appurtenances to said premises belonging; and the reversion and reversions, remainder and remainders, tolls, income, rents, issues, and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said Des Moines, Northern & Western Railroad Company of, in and to the same, and every part thereof; and also said company's interest, whatsoever the same may be in and to the line of telegraph extending along the route of said railway, with all the instruments, implements, machinery, furniture, and materials for constructing, furnishing or operating the same, and also one-fourth interest in the capital stock of the Des Moines Union Railway Company; it being the intent hereof to convey all the aforesaid railroad lines, with all their appurtenances and incidents, as received by the grantor herein from a deed of conveyance executed and delivered to it by G.

M. Dodge, F. M. Hubbell, and F. C. Hubbell, Purchasing Committee, on the eighth day of February, 1895; together with all property, rights, franchises, licenses, and privileges of every name and description, which the said grantor has in any manner acquired since said eighth day of February, 1895.

448 To Have and To Hold all and singular, the said premises above mentioned and described and hereby granted and conveyed, or intended so to be, with the appurtenances, unto the said Chicago, Milwaukee & St. Paul Railway Company, party hereto of the second part, and to its successors and assigns forever.

And the said Des Moines, Northern & Western Railroad Company hereby warrants the title to all the above mentioned and described premises against all persons whomsoever, and hereby covenants and agrees to and with the said party of the second part hereto that it will make, execute, and deliver to it all such further deeds and instruments as may be reasonably required by it for the better assuring of the title to the premises hereby conveyed, or intended so to be.

In Witness Whereof, the said Des Moines, Northern & Western Railroad Company has caused these presents to be executed by its President and its corporate seal to be hereunto affixed and attested by its Secretary, the day and year first above written.

DES MOINES, NORTHERN & WESTERN  
RAILROAD COMPANY,

(Corporate Seal)

By A. J. Earling, President.

Attest: P. M. Myers, Secretary.

State of Wisconsin }  
County of Milwaukee } ss.

Be it known, That on the fifth day of May, A. D. 1899, before me, a Commissioner residing in the State of Wisconsin, duly appointed and commissioned by the Governor of  
449 the State of Iowa, to administer oaths and take acknowledgments and proofs of deeds to be used and recorded in the State of Iowa, personally came Albert J. Earling, President, and Peter M. Myers, Secretary, of the Des Moines, Northern & Western Railroad Company, to me personally known, and known by me to be the identical persons who executed the foregoing instruments, and by me being duly sworn, did each depose and say; That they are respectively President and Secretary of said Company; that the seal affixed to the foregoing instrument is the corporate seal of

said Company and was affixed by authority of said Company, and that they signed their respective names thereto as President and Secretary by the like authority; and they severally acknowledged the execution thereof to be their voluntary act and deed and the voluntary act of the said Des Moines, Northern & Western Railroad Company for the purposes therein expressed.

In Witness Whereof, I have hereunto set my hand and affixed my official seal on the day and year last above written.

(Commissioner's seal)

E. W. ADAMS,

Commissioner for Iowa in Wisconsin.

(United States Revenue stamps to the amount of \$2,464.00 affixed and cancelled).

And all the foregoing resolutions and the deed having been read to and considered by the meeting, on motion duly seconded, and upon a stock vote, the following resolutions were unanimously adopted, 43,725 shares—being all the 450 shares of the capital stock of this Company issued and now out-standing—voting in favor thereof;

Resolved, that this company will and it does hereby accede to the request, and accept the offer made to it by the Chicago, Milwaukee & St. Paul Railway Company as set out in the preamble and resolutions adopted by the Board of Directors of said company at a meeting of said Board held in the City of New York, on March 9th ultimo, and now read in our hearing; and

Resolved, That this Company hereby ratifies and approves and confirms the action taken by its Board of Directors at their meeting held in the City of Chicago on April 24th ultimo, accepting said offer of the Chicago, Milwaukee & St. Paul Railway Company and authorizing and directing the President and Secretary of this Company to make and execute a deed of conveyance of all the railroad and property of this Company to the said Chicago, Milwaukee & St. Paul Railway Company as set out in the minutes of said meeting of April 24th and now read in our hearing, and

Resolved, that this Company hereby approves the form of deed made and executed by the President and Secretary of this Company, and now laid before and read to this meeting of stockholders, conveying to the Chicago, Milwaukee & St. Paul Railway Company, its successors and assigns, all the railroad and property of this Company of every name and nature, wheresoever situated, and all its rights, franchises, licenses, privileges, and immunities of every kind, howsoever

derived, as in said deed particularly set forth, and here-  
 451 by ratifies, approves and confirms the execution and  
 acknowledgment thereof by the President and Secre-  
 tary of this Company, and hereby directs said officers to de-  
 liver said deed to the said Chicago, Milwaukee & St. Paul  
 Railway Company.

And there being no further business to come before this  
 meeting, on motion duly seconded, the stockholders adjourned  
 sine die.

Attest:

P. M. MYERS,  
 Secretary.

**Defendants' Exhibit 223.**

452

**Des Moines, Northern & Western Railway Company.**

Special Meeting of Directors. Chicago, Illinois, May 27, '99.

Pursuant to the call of the President, a special meeting of  
 the Directors was held at the office of the Company in this  
 city at 3 o'clock in the afternoon of this day.

And there were present the President and Messrs. Good-  
 man, Keefer, Miller and Myers, ..... 3

And absent, Messrs. Collins and Hanson, ..... 2

The President having taken the chair, on motion, duly sec-  
 onded, the reading of the minutes of the last meeting of the  
 Directors was dispensed with.

The President stated to the Board that the stockholders of  
 this Company at their special meeting held in the City of  
 Des Moines, on the 8th instant, had unanimously ratified the  
 sale of the railroad and property of this Company, to the  
 Chicago, Milwaukee & St. Paul Railway Company and the  
 deed of conveyance thereof, and had directed the officers of  
 this Company to deliver said deed of conveyance to the Chi-  
 cago, Milwaukee & St. Paul Railway Company;

That said deed had been delivered, in pursuance of the au-  
 thority so given, and that the Chicago, Milwaukee & St. Paul  
 Railway Company had delivered to this Company a release  
 duly executed by the Metropolitan Trust Company of the  
 City of New York, Trustee, of the mortgage made by this Com-  
 pany to said Trust Company, under date of January 1st, 1895;  
 and also a certificate of the destruction by burning of  
 453 all the bonds and coupons issued thereunder, except  
 eighteen (18) coupons due January 1st, 1897, which had  
 never been presented for payment; and that there was now

in the hands of the Trust Company the sum of \$355 in money, belonging to this Company which amount is held by the Trust Company against said coupons; and he suggested that the Trust Company be requested to pay over said amount of \$355 to the Chicago, Milwaukee & St. Paul Railway Company as said last named Company is, by the terms of the deed, obligated to pay all the debts of every name and nature of this Company, including, of course, any unpaid coupons.

Whereupon, on motion, duly seconded, it was

Resolved, that the Secretary of the Company be and is hereby directed to enter in full on the record, and as part of the minutes of this meeting the said release of mortgage and said certificate of cremation of the bonds issued thereunder; and that he be, and is hereby directed to put said release of mortgage on record in the Counties where the mortgage was originally recorded.

And the said release of mortgage and cremation certificate are as follows;

Know All Men By These Presents;

That, Whereas, the Des Moines, Northern & Western Railroad Company did on the first day of January, 1895, make execute and deliver to the Metropolitan Trust Company, of the City of New York, Trustee, a mortgage deed of its railway property known as its Trust Mortgage, to secure  
454 certain bonds, which said property was in said Trust Mortgage described as follows;

"All its railroad, extending from Farnham Street, in the city of Des Moines, County of Polk, and State of Iowa, through the Counties of Polk, Dallas, Guthrie, Greene, Calhoun, and Pocahontas, Iowa, to Fonda, in said last named County, and also extending from Clive, in said County of Polk, through the Counties of Polk, Dallas and Boone, Iowa, to the city of Boone, in said last named County, together with all its real estate necessary for and used in the operation of said lines of railway, its rights-of-way, roadbed, bridges, tracks, side-tracks, turnouts, switches, buildings, and structures, water tanks, and fixtures, shops, engines and other houses, depots, turntables, engines, cars, and machinery; also together with all its corporate and other franchises, rights, privileges, and immunities, rents, issues, tolls, and earnings; also all its properties of whatsoever name, nature, or description that may hereafter be acquired; also a one-fourth interest in the capital stock of the Des Moines Union Railway Company; it being the intent hereby to convey and mortgage all its railroad property and all things appurtenant thereto or used in connection

therewith, whether now acquired and owned or hereafter acquired and owned by the party of the first part"; and

Whereas, the Des Moines, Northern & Western Railroad Company did on the 5th day of May, 1899, by its Board of Directors, pass a resolution requesting the Metropolitan Trust Company, of the City of New York, Trustee of said Trust Mortgage, to satisfy and discharge the said Trust Mortgage of record;

455 Now, Therefore, This Indenture Witnesseth; That the said Trustee, the Metropolitan Trust Company of the City of New York, hereby acknowledges payment and satisfaction of said Trust Mortgage, and does hereby cancel and discharge the said Trust Mortgage and release and quit-claim unto the said Des Moines, Northern & Western Railroad Company its successors and assigns forever, all of the property covered by said mortgage, and does hereby authorize the various officers of the State and Counties in which the same is recorded and filed, to properly discharge the same of record.

In Witness Whereof, the Metropolitan Trust Company of the City of New York has caused these presents to be executed by its President under its corporate seal, attested by its Secretary, the 17th day of May, One Thousand, Eight Hundred and Ninety-nine.

(Corporate Seal) METROPOLITAN TRUST COMPANY,  
of the City of New York,

By Brayton Ives, President.

Attest: Beverly Chew, Secretary.

In the presence of

P. J. Josy, Jr.,

Chas. Edgar Mills.

(The certificate of acknowledgment is omitted.)

456 \* \* \* \* And there being no further business to come before the meeting, on motion duly seconded, the Board adjourned.

Attest: J. M. MYERS, Secretary.

457

**Defendants' Exhibit 224.**

**Chicago, Milwaukee & St. Paul Railway Company.**

Extracts From Stockholders' Records

Relating to

**Des Moines, Northern & Western Railroad Company.**

Annual Meeting, September 23, 1899.

"On behalf of the Board of Directors, the President reported to the meeting that this Company has acquired the entire capital stock (43,725) shares of the Des Moines, Northern & Western Railroad Company, and all of its outstanding first mortgage bonds, amounting to \$2,933,000; and that the amount paid for said stock and bonds is \$2,463,511.95;

"That 43,718 of said shares now stand in the name of this Company, and one share stands in the name of each of the seven Directors, all of whom are officers of this Company; that all of said mortgage bonds, together with all matured and unmatured coupons, have been surrendered and cancelled and the mortgage securing them has been released by the Trustee thereof, and the release has been duly recorded; and that said Company has no other or further debts than current liabilities, which have been fully paid by its current asset;

"That in consideration of such surrender, cancellation and release of its mortgage debt, the said Des Moines, Northern & Western Railroad Company did, by deed dated May 1st, 1899, convey to this Company all its railroad extending from Des Moines, via Clive, to Boone, and from Clive to 458 Fonda, aggregating 150 miles, all in the State of Iowa, and all its property of every name and nature, and that said deed has been duly recorded and is now on file with the muniments of title of this Company;

"That a certificate of the aforesaid purchase and conveyance has been filed with the United States Trust Company of New York, Trustee of the so-called General Mortgage of this Company, to the end that the railroad and property so acquired from the Des Moines, Northern & Western Railroad Company should become subject to the lien of said General Mortgage; and

"That the Board of Directors respectfully requests this meeting of stockholders to adopt the following resolution:

"Resolved, that the stockholders of this Company do hereby ratify, approve, and confirm the action of the Board of Directors and officers of this Company in acquiring, on behalf of this Company, all the capital stock and mortgage bonds of the Des Moines, Northern & Western Railroad Company, and in surrendering and cancelling said bonds and procuring the release of the mortgage securing the same, and in accepting from said Company its certain deed, dated May 1st, 1899, which deed, in consideration of said surrender, cancellation and release, conveys to the Chicago, Milwaukee & St. Paul Railway Company, all the railroad and property of said Des Moines,

Northern & Western Railroad Company, and in recording said deed; and further ratify, approve and confirm the acquisition and purchase of the railroad and property of the Des Moines, Northern & Western Railroad Company.

"And thereupon, on motion of Mr. Milbank, duly seconded, the foregoing resolution was unanimously adopted."

459

### **Defendants' Exhibit 225.**

**Chicago, Milwaukee & St. Paul Railway Company.**

Extracts From Directors' Records

Relating to

Des Moines, Northern & Western Railroad Company.

Executive Committee, November 30, 1894:

"A letter from the President, dated 15th of November was read, reporting the foreclosure of the mortgage covering the Des Moines, Northern & Western Railroad, and suggesting that the new mortgage should provide for extensions and improvements.

"The suggestion was approved."

Executive Committee, May 16, 1895:

"The Vice President read for information of the Committee, letter dated 13th May from the President, stating that the re-organization of the Des Moines, Northern & Western Railway Company is completed and the property transferred to the new Company named Des Moines, Northern & Western Railroad Company.

"That the new Company has issued 43,725 shares of stock, \$100.00 each, and \$2,915,000. of bonds for the purchase of the property. That forty per cent (40%) of the 43,725 shares, or 17,490 shares, had been transferred to Roswell Miller, as Trustee, in accordance with the contract made by this Company, with Fred M. Hubbell and others, and that 3498 of these shares (1/5) one-fifth had been earned by this Company under the contract."

460 Executive Committee, May 23, 1895:

"The Vice President submitted for information and for the files of this office a pamphlet containing the foreclosure proceedings of the Des Moines, Northern & Western Railway

Company mortgage, the incorporation, etc., of the successor company, Des Moines, Northern & Western Railroad Company, and copy of the mortgage made by that Company to the Metropolitan Trust Company of the City of New York as Trustee."

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Executive Committee, October 20, 1898:

"On motion it was

"Resolved, that this Committee recommend the Board of Directors to authorize the President of this Company to purchase all of the Des Moines Northern & Western Railroad Company, stock and bonds held by F. M. Hubbell & Son and their friends, the price not to exceed 85 per cent of the face value of the bonds, and that he be further authorized to purchase all the minority holdings of stock and bonds of that Company that shall be offered for sale on like or better terms."

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Directors Meeting, October 27, 1895:

"After consideration of the recommendation of the Executive Committee, it was

"Resolved, that the President of this Company be and he hereby is authorized to purchase the stock and bonds of the Des Moines, Northern & Western Railroad Company held by

F. M. Hubbell & Son and their friends, at not exceeding  
461 85% of the face value of the bonds, provided, however, that the stock so to be purchased from the Hubbells, shall, with the stock already in possession of this Company, constitute a clear majority of all the share capital of that Company. And further

"Resolved, that he be, and hereby is authorized to purchase the minority holdings of stock and bonds of that Company that shall be offered for sale on like or better terms."

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Executive Committee, November 17, 1898:

"On motion it was

"Resolved, that the purchase reported by the President's letter of the 15th of November of 2150 bonds out of a total issue of 2902 of the Des Moines, Northern & Western Railroad Company, and \$1,873,900 of stock of that Company, at 85% and interest for the bonds is hereby approved.

"The Vice President reported that said stock together with what this Company had acquired under its traffic contract amounts to \$3,622,900 out of \$4,372,500 the total outstanding stock of that Company."

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Executive Committee, December 1, 1898:

"The Vice President reported that he had purchased from General Dodge \$146,000 Des Moines, Northern & Western Railroad Company, four per cent bonds; that all but 67 have been delivered and paid for at 85 per cent and interest; and that he had received from General Dodge 6839 shares of stock 462 that go with the bonds, except 900 of the shares included in certificate No. 13, that are the property of L. M. Martin for which we are to pay at the rate we were to have paid for the option stock about \$7.00 per share. He further reported that he had purchased \$158,000 of bonds without stock for which he had paid 75 per cent flat."

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Executive Committee, December 15, 1898;

"The Vice President reported that all except six of the so-called minority holdings of the Des Moines, Northern & Western Railroad Company bonds have been purchased by the Company."

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Board of Directors, December 29, 1898:

"The Vice President reported that he had completed the purchase from F. M. Hubbell of the 2150 bonds of the Des Moines, Northern & Western Railroad Company, and paid for them at the rate of 85c. ex. January coupon, and he read letter dated 27th December from the President stating that there was no reason why we should not complete the purchase of the bonds and stock of that Company. On motion the purchase was approved."

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Executive Committee, February 9, 1899;

"The Vice President reported for information of the Committee that the President had purchased from A. B. Cummins for \$5,000.00, 625 shares of stock of the Des Moines, 463 Northern & Western Railroad Company, leaving but 35 shares still outstanding and one bond outstanding of the entire issue."

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Executive Committee, February 16, 1899:

"The Vice President read letter dated 12th February from the President stating that he had obtained the 32 shares of Des Moines, Northern & Western Railroad stock of W. R. Warfield for \$256.00,—all the stock of that Company that was outstanding,—and suggesting that proceedings be taken to absorb the road.

"On motion it was

"Resolved: That the President be authorized to take the necessary steps to absorb the Des Moines, Northern & Western Railway property, under advice of counsel, in accordance with his recommendation."

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Executive Committee, March 2, 1899:

"On motion it was

"Resolved, that this Committee recommend the Board of Directors to adopt a resolution requesting the Des Moines, Northern & Western Railroad Company to convey its railway, franchises and other property to this Company."

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Board of Directors, March 9, 1899:

"The Vice President reported that all but one share of the stock of the Des Moines, Northern & Western Railroad Company, and all of its bonds, except one for \$1000, had been purchased by this Company; and that it was deemed advisable to take over its railroad and property; and he submitted the following described documents prepared by counsel.

"1. Resolutions to be adopted by Board of Directors of Chicago, Milwaukee & St. Paul Railway Company, offering to purchase the Des Moines, Northern & Western road.

"2. Resolutions to be adopted by Board of Directors of the Des Moines, Northern & Western Railroad Company, consenting to sell its road; directing the making and execution of deed thereof to St. Paul Company, and calling meeting of its stockholders to ratify consent; approve deed, and authorize delivery of same.

"3. Resolutions to be adopted by the stockholders of the Des Moines, Northern & Western Railroad Company, ratifying sale of its road, and authorizing delivery of deed to St. Paul Company.

"4. Draft of deed from the Des Moines, Northern & Western Railroad Company to the Chicago, Milwaukee & St. Paul Railway Company. Made in pursuance of the authority contained in forms 1, 2, and 3.

"Whereupon on motion the preamble and resolutions of document No. 1 were adopted as follows:

"Whereas, the Des Moines, Northern & Western Railroad Company owns and operates a line of railroad commencing in the city of Des Moines, Polk County, Iowa, and extending thence in a general northwesterly direction, via Clive, 465 in said county, to Fonda, in Pocahontas County; and also a line of railroad commencing at Clive and thence extending in a northerly direction to Boone, in Boone County, all in the State of Iowa, the aggregate length of said lines of railroad being about 150 miles; and

"Whereas, the said Des Moines, Northern & Western Railroad Company has issued and there are now outstanding 43,725 shares of one hundred dollars (\$100.) each, of its capital stock; and its railroad and property are encumbered by a mortgage debt consisting of two thousand nine hundred and thirty-three (2933) bonds of one thousand dollars (\$1000) each, due January 1st, 1915, and bearing interest at four per cent (4%) per annum, payable semi-annually, both interest and principal payable in gold; and

"Whereas, this Company is the owner of 43,724 out of the above mentioned 43,725 shares of capital stock, and of 2932 out of the above mentioned 2933 bonds, and has paid therefor the sum of \$2,462,511.95 dollars; and

"Whereas, the lines of railroad of the said Des Moines, Northern & Western Railroad Company intersect and are connected with the Chicago & Council Bluffs Division of the railway of this Company, at Madrid and at Herndon, in said State of Iowa, and by reason of such connections form a through line reaching the principal cities and Towns in said state, and states adjacent; and

466 "Whereas, it is for the interest of this Company and of the public that the said lines of the Des Moines, Northern & Western Railroad should be owned and operated by this Company, and that to this end, the said Des Moines, Northern & Western Railroad Company should sell and convey and transfer by deed to the Chicago, Milwaukee & St. Paul Railway Company, all its railroad and property, and every part thereof, and all its rights, franchises, licenses, privi-

leges, and immunities of every kind howsoever derived; and the said Des Moines, Northern & Western Railroad Company is authorized and empowered, under the laws of the State of Iowa, to make such sale and to execute and deliver such conveyance as aforesaid:

"Now, Therefore, be it

"Resolved, that the Des Moines, Northern & Western Railroad Company be and is hereby requested to sell and convey to this Company all its railroad and property, and for this purpose to make, execute, and deliver, through its proper officers, a good and sufficient deed of conveyance, conveying and transferring to this Company all its railroad and property of every name and nature wheresoever situated, and all its rights, franchises, licenses, privileges and immunities of every kind, however derived, in consideration of the sum of one Dollar, and of the cancellation and surrender by this Company of all the above mentioned mortgage bonds of the Des Moines, Northern & Western Railroad Company, amounting in the aggregate to the sum of \$2,933,000 with the interest  
467 due thereon, and of the payment of all other lawful debts of said Company; and this Company hereby agrees that, upon the delivery to it of such deed, it will cancel and surrender the said mortgage bonds and will assume and pay all other lawful debts of said Des Moines, Northern & Western Railroad Company, and hold said Company free and clear and harmless therefrom; and

"Resolved, that the officers of the Company be, and they are hereby authorized and directed to accept such deed for and on behalf of this Company, and to cause the same to be duly recorded, and when so recorded, to be filed with the muniments of title of this Company."

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Executive Committee, April 13, 1899:

"The Vice President reported for the information of the Committee that he had paid par for the last Des Moines, Northern & Western Railroad Company bond which was outstanding. Approved.

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Executive Committee, May 4, 1899:

"The Vice President reported that all of the stock of the Des Moines, Northern & Western Railroad Company, except seven shares in names of the Directors, now stand registered in name of the Chicago, Milwaukee & St. Paul Railway Company."

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## THE DES MOINES UNION RY. CO., ET AL.

Executive Committee, May 18, 1899:

468 "The Vice President reported that he had received a certificate of the burning of the bonds and coupons of the Des Moines, Northern & Western Railroad Company, certified by a Notary Public and by James M. McKinley on the part of the Railway Company and by John Telfer on the part of the Metropolitan Trust Company. Also that he received from the Trust Company a satisfaction of the mortgage securing the bonds, executed under the seal of the Trust Company and signatures of Brayton Ives, President, and Beverly Chew, Secretary.

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Board of Directors, May 25, 1899:

"The Vice President reported that the Des Moines, Northern & Western Railroad Company had conveyed its railway and property to the Chicago, Milwaukee & St. Paul Railway Company, by deed dated 1st May, 1899; and that the deed executed by the Des Moines, Northern & Western Railroad Company, and the satisfaction piece executed 17th May, 1899, by the Metropolitan Trust Company of the Des Moines, Northern & Western Railroad Company mortgage dated 1st January, 1895; and the General Mortgage executed by this Company 1st May, 1889; were in the hands of the Secretary of this Company with instructions to have these three instruments recorded in the several counties in which the property of the said Des Moines Company is located.

"The Vice President further reported that the President had written saying that he will continue to operate the Des Moines, Northern & Western road as a separate property until the first of July next."

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469 Executive Committee, June 15, 1899:

"The Vice President submitted certificate, signed by the President and the Chief Engineer, of the acquisition by purchase by this Company of the railroad and property of the Des Moines, Northern & Western Railroad Company, showing the cost thereof to be \$2,466,574.01; to which certificate there is affixed certified copy of the proceedings of the Board of Directors and of the stockholders of said railroad company, and of the deed of the railroad and property made in pursuance thereof. After consideration it was

"Resolved, that the officers of this Company are hereby instructed to file certificate of the acquisition of the Des Moines, Northern & Western Railroad and property with the United

States Trust Company, Trustee of the General Mortgage of this Company dated May 1st, 1889, and to request the certification and delivery to this Company of \$2,467,000 in amount of General Mortgage Bonds in accordance with the requirements of said mortgage.

"The Vice President read for information of the Committee, letter dated 7th June from Secretary Myers, which states that the deed to this Company made by the Des Moines, Northern & Western Railroad Company, and the release of the mortgage of that Company have been duly recorded and returned to him; also that the General Mortgage of this Company has been recorded in all the counties in which the Fonda and Spencer line and the Rockwell City and Storm Lake line will be built."

470 Executive Committee, June 29, 1899:

"The Vice President reported that official notice by circulars dated June 26th had been issued taking over the Des Moines, Northern & Western Railroad, and announcing that from July 1st that line would be operated as a part of the St. Paul Lines to be known as the Des Moines Division."

Executive Committee, December 12, 1901:

"On motion, duly seconded, it was

"Resolved, that the item of \$4372.50 standing on the balance sheet for stock of the Des Moines, Northern & Western R. R. Co. be written off to cost of road."

471

### **Defendants' Exhibit 226.**

**Wabash, St. Louis & Pacific Railway Company.**

Adjourned Meeting of Directors.

March 23, 1881.

Whereas, James F. How, has at the request and for the benefit of the Wabash St. Louis & Pacific Railway Co. subscribed for the entire Capital Stock of the St. Louis and Des Moines R. R. Co. with the exception of four shares and executed a contract with said Company for the construction of its railroad from Albia to Des Moines, therefore,

Resolved, That this Company will protect and save the said James F. How harmless from all personal liability as the subscriber for and holder of said stock or as a party to said contract for the construction of said railroad.

Whereas, James F. How has been requested to subscribe in his own name for the entire Capital stock of the St. Louis Jerseyville and Springfield Railroad Company of Illinois and hold said stock as an agent of this Company, and

Whereas, he has also been requested as such agent, to enter into a contract with said St. Louis Jerseyville and Springfield Railroad Company for the construction of its line of railroad, now therefore

Resolved, that the Wabash St. Louis and Pacific Railway Company will protect and save said James F. How harmless from all personal liability to any person or persons whomsoever either as the subscriber for or as holder of said stock or as a party to any contract made for the construction of said railroad.

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#### **Defendants' Exhibit 227.**

472

#### **Wabash, St. Louis & Pacific Railway Company.**

Regular Meeting Executive Committee, December 26, 1882.

Voted. That the securities of this Company as given in the list furnished by the 2nd Secretary and copied in these records below, which are not already held in trust, be deposited with the Mercantile Trust Co. as soon as practicable to secure the payment of any and all unpaid notes of this Company which have been or may be endorsed by Jay Gould, Russell Sage, Sidney Dillon, and Solon Humphreys, including such transfer of the fee or ownership of the Rolling Stock held by the N. Y. & Pacific Car Trust Association as can be legally conveyed by said Car Trust Association and confirmed by this Company.

## LIST OF SECURITIES.

Stock in	St. Louis & N. O. Transportation Co.	8	100,000
"	" American Refrigerator Co.		14,985
"	" Union Elevator Co.		35,416 67
"	" Union Depot Kansas City		7,666 66
"	" " St. Louis		1,000
"	" " Hannibal		6,000
Miscellaneous Securities	Union Bridge Co. Bonds &c.		27,794 39
Bonds,	Havana R. & Eastern R.		5,012 75
Stock	" " " "		246,856 67
"	Des Moines & Northwestern		2,801 57
Bonds,	Toledo P. & Western 1st. Income		1,711,000
"	" " " " 2nd. "		728,000
Stock,	Champaign H. & W. (\$1,632,850.)		1,306,280
"	Toledo Peoria & W. (\$1,212,900.)		404,300
Bonds	Humeston & Shenandoah 1st. Mtge.		951,000
"	General Mtge.		1,000,000
"	Mtge. 7s of 1879		400,000
"	Detroit Division		199,000
"	Peoria & P. Union R.		42,000
Stock	" " " "		500,000
Stock	Chicago & Western Indiana		1,000,000
"	St. Louis Bridge & Tunnel Co. (1/2)		1,250,000
Real Estate in	Des Moines		300,000
Securities in	Terry Trust consisting of Steamers, Rolling		
Stock and Real Estate in	Chicago		1,100,000
			<hr/> \$11,339,113.71

475

## Defendants' Exhibit 22.

## Wabash Western Railway Company.

Extract from minutes of meeting of Board of Directors of  
Wabash Western Railway Co.

March 14, 1887.

General Hubbard brought the matter of the sale of the Des Moines Northwestern Railway Co. to Messrs. Polk & Hubbell, before the Board and after some discussion the following resolution was adopted.

Resolved, that the conditional agreement which the Purchasing Committee have heretofore entered into with Messrs. Polk & Hubbell for the resale of the Des Moines Northwestern Railway Co. be, and the same is hereby approved and confirmed, and the said Purchasing Committee is hereby directed to consummate the same, it being understood that no part of the Car Trust Equipment is included in said agreement.

The said agreement being as follows:

"New York, October 9, 1886.

"To the Purchasing Committee of the Wabash, St. Louis and  
"Pacific Railway Co.

"Gentlemen:

"We make the following proposition in regard to the Des Moines Northwestern Railway. The mortgage to be foreclosed to cover all advances made by the Wabash Company to D. M. N. W. R'y. Co. A good and perfect title free from all liens and encumbrances, including all claims the Receivers may have against it, to be made to Polk & Hubbell for said Railway and all its property, rights, franchises, all its (interest) in the equipment and a one-fourth interest in the terminal property at Des Moines and 5037 shares (of stock) in the D. M. N. W. R'y. Co.

Upon the delivery of the property above named in the condition as to title as above specified, Polk & Hubbell are to pay the Committee a \$450,000 first mortgage 5% bond.

476 The issue to be only \$450,000 and to be secured by a first mortgage on the property conveyed, to-wit: on that part of said railway lying between Farnham Street in Des Moines and the town of Fonda, and equipment. To run two years from the time the title is delivered to Polk & Hubbell and to be redeemable at their option at any time before maturity, upon payment of principal and accrued interest, and if paid within one year from the time the title is delivered to Polk and Hubbell, then \$450,000 cash shall discharge said mortgage and debt. Polk & Hubbell to have all the stock of the new Company. As soon as the contract is completed Polk & Hubbell are to make arrangements to standard gauge the road. If accepted, the details and plan of carrying out the above is to be agreed upon and embodied in a contract to be signed by the necessary parties.

((Signed) POLK & HUBBELL."

"New York, October 9, 1886.

The foregoing proposition is satisfactory to us and we agree as a Committee acting under the contract of July 15, 1885 between ourselves and certain bondholders to take all measures in our power to have the same fully performed.

((Signed) O. D. ASHLEY,  
" THOS. H. HUBBARD,  
" EDGAR T. WELLES."

477

**Defendants' Exhibit 229.**

Extract from report of Charles M. Hays, General Manager, to J. F. How, Vice-President, Wabash Western Railway Co., dated February 25, 1888, and embodied in the annual report presented to the Stockholders of said Company at the annual meeting, held March 13, 1888.

There has also been erected during the year an addition of fifteen stalls to roundhouse at Moberly, at a cost of .....\$15,625.79

Fifteen-stall roundhouse at Des Moines, Ia. (which will be conveyed, with other property at that point, to the Des Moines Union Railway Co.).\$12,472.96

478

**Defendants' Exhibit 230.****The Wabash Railroad Company.**

Executive Committee Meeting. December 17, 1889.

The President reported an offer the Purchasing Committee had received from Mr. F. M. Hubbell of \$300,000 in cash for the Des Moines Northwestern Road now represented by \$450,000 in Bonds in the hands of the Purchasing Committee. After some discussion, and without taking formal action, the members of the Committee declined to advise acceptance of the proposition by the Purchasing Committee.

479

**Defendants' Exhibit 231.****The Wabash Railroad Company.**

Directors' Meeting, February 18, 1890.

The President on behalf of the Committee appointed by the Executive Committee January 28th, to consider Mr. Hubbell's proposition of \$350,000 cash for the Des Moines & Northwestern Bonds, stated that a counter proposition, subject to the approval of the Board, had been made to Mr. Hubbell for the sale of the Bonds for \$400,000, \$115,000 of which was to be paid in Des Moines Union Railway Company Bonds, and the balance in ten cash payments of \$28,500 each with interest on the latter from March 1, 1890, at 6% per annum; Mr. Hubbell to have until March 1st. the option of accepting or declining this proposition.

On Motion, the reports were accepted and the proposition of the President to Mr. Hubbell approved.

**Defendants' Exhibit 232.****The Wabash Railroad Company.**

Directors' Meeting, March 3, 1890.

The President stated that the proposition which he had made for the sale of the Des Moines & Northwestern bonds to Mr. F. M. Hubbell, had been accepted by the latter; and requested the Board to authorize the execution of the following agreement:

Referring to a conditional contract dated October 9, 1886, between Messrs. Polk & Hubbell, of the one part, and the Wabash Purchasing Committee, so called, of the other part, and to an agreement dated September 10, 1887, made between the same parties, and to an agreement dated May 29, 1888, signed by the Central Trust Company of New York, and assented to by said Purchasing Committee, and to an agreement dated May 15, 1889, between said Purchasing Committee and the Des Moines & Northwestern Railway Company, the parties interested in said agreements do hereby covenant, undertake and agree as follows:

First. F. M. Hubbell of Des Moines, Iowa, agrees to buy and does hereby buy from the said Purchasing Committee forty-five First Mortgage bonds of the Des Moines & Northwestern Railway Company, each for the principal amount of \$10,000, being the same bonds now held by said Central Trust Company, and mentioned in said agreement of May 29, 1888.

Second. The said F. M. Hubbell agrees to pay for said bonds as follows; to-wit: He will pay and deliver to the said Purchasing Committee when this agreement is signed bonds of the Des Moines Union Railway Company of the par value of \$115,000. Of said last mentioned bonds \$112,000 par value are held in trust by Wager Swayne, and the said Hubbell agrees to have said trust discharged so that said bonds may be delivered unconditionally to the said Purchasing Committee; to whom also the said Hubbell will deliver other bonds of the same issue of \$3000 par value. The said Hubbell will also pay to said Purchasing Committee \$285,000 in ten monthly instalments as follows, to-wit: April 1, 1890, \$28,500; May 1, 1890, \$28,500; June 1, 1890, \$28,500; September 1, 1890, \$28,500; October 1, 1890, \$28,500; November 1, 1890, \$28,500; December 1, 1890, \$28,500; January 1, 1891, \$28,500; February 1, 1891, \$28,500; March 1, 1891, \$28,500. As evidence of his indebtedness for said payment said Hubbell will make and deliver to said Purchasing Committee his ten promissory notes for the several amounts and falling due on the several dates hereinbefore mentioned, and each of said notes shall bear in-

terest at the rate of six per cent per annum from March 1, 1890, until paid. It is understood and agreed that said Hubbell may, at his pleasure, anticipate payment of any of the amounts above mentioned and thereby stop interest thereon.

Third. The said Purchasing Committee agrees to sell to said F. M. Hubbell the said forty-five First Mortgage Bonds of the Des Moines & Northwestern Railway Company each for the principal amount of \$10,000 as aforesaid, and to assign and transfer, as said Committee hereby does to said F. M. Hubbell all the rights of said Committee with respect to said forty-five bonds in consideration of the payments to be made by said Hubbell as hereinbefore specified and to deliver to said Hubbell \$45,000 par value of said Des Moines & Northwestern

482 Railway Company bonds (being one-tenth of the total amount thereof) upon the payments by said Hubbell of each one of the notes above mentioned with interest as aforesaid.

Fourth. Polk & Hubbell and the Des Moines & Northwestern Railway Company assent to this agreement and release the said Purchasing Committee and its individual members from all liability in respect to all or any of the agreements mentioned in the preamble to this contract, so far as such liability might otherwise be charged upon the estate of said Committee not heretofore conveyed and so far as the members of said Committee might otherwise be individually liable. It is, however, expressly understood and agreed by both the parties hereto that nothing herein contained is meant or shall be construed to release or waive any agreement or liability made or assumed by said Committee and which by the terms of any decree of Court or conveyance by said Committee has been charged upon any property whatever which said Committee has heretofore purchased or conveyed. And the said F. M. Hubbell joins in said release, in consideration that the Wabash Railroad Company agrees to perform said contracts so far as they are not superseded hereby and so far as said Purchasing Committee would otherwise be bound to perform the same and to protect and hold harmless the parties to said agreements to the same extent that the said Purchasing Committee would be bound to protect them and hold them harmless if this release had not been made.

Fifth. In consideration of the premises and in consideration also of its interest in the bonds of the Des Moines & 483 Northwestern Railway Company and of its obligation to protect the said Purchasing Committee in respect to the several contracts and agreements herein mentioned, which it hereby recognizes and acknowledges, the Wabash Railroad Com-

pany by authority of its Board of Directors undertakes and agrees to perform the several agreements and the conditional contract mentioned in the preamble to this contract so far as the same are not superseded by this contract and so far as the said Purchasing Committee would be bound to perform the same if not released by the last preceding article hereof; and agrees to protect and hold harmless Polk and Hubbell, F. M. Hubbell and the Des Moines & Northwestern Railway Company against any claims or liens which may exist upon any of the property sold by said Purchasing Committee to Polk and Hubbell or to the Des Moines & Northwestern Railway Company according to the true meaning and intent of the agreements mentioned in the preamble to this contract, and especially to protect them against the claim of the Des Moines & Fort Dodge Railroad Company now pending in the supreme court of the United States as cause numbered 256 on the calendar of said Court and against all claims that may arise from any of the matters mentioned or referred to in said cause numbered 256 aforesaid.

Sixth. The Central Trust Company of New York hereby assents to this contract in consideration that the Purchasing Committee delivers to it the \$115,000 bonds of the Des Moines Union Railway Company and the ten notes of F. M. Hubbell hereinbefore mentioned to be held by the Central Trust Company as collateral security for the indebtedness to it of said Purchasing Committee.

In Witness Whereof, the several individuals, parties to this contract have hereunto set their names and affixed their seals, and the several corporations, parties hereto, have caused these presents to be signed by one of their officers and their seals to be affixed and attested by their respective Secretaries this first day of March 1890.

Upon Motion, duly seconded, the agreement was ratified and confirmed, and the officers of the Company were authorized to execute the same.

485

### **Defendants' Exhibit 233.**

#### **The Wabash Railroad Company.**

Directors' Meeting, June 2, 1890.

President Ashley stated that he had received two propositions from Mr. Willard T. Block, President of the Chicago, Fort Madison & Des Moines R'y. Co., for the purchase of the line running from Albia to Des Moines, now held by the Purchasing Committee; that the first proposition was \$7,000 per

mile, one half in cash and one half in the five per cent bonds of the Chicago, Fort Madison & Des Moines R'y Co., to be issued at the rate of \$20,000 per mile on the line from Fort Madison to Des Moines. The second proposition was \$7,000 per mile, \$100,000 to be in cash, and the balance, secured by the line purchased, to be paid in not less than three years: One eighth of the Des Moines Terminal R'y. Company Capital Stock to go with the line purchased under either proposition.

Upon Motion, duly seconded, Mr. Block's propositions were referred to the Executive Committee with power.

486

### **Defendants' Exhibit 234.**

#### **The Wabash Railroad Company.**

Directors' Meeting, October 22, 1895.

Whereas, The Des Moines & St. Louis Railroad Company, a corporation organized under the laws of Iowa, did on or about the first day of December, 1881, execute a certain deed of trust or mortgage whereby it conveyed to the Central Trust Company of New York and James Cheney, trustees, all its railroad, extending from the eastern boundary of the City of Des Moines to Albia, and all situated in the counties of Polk, Marion and Monroe in said State of Iowa, together with the appurtenances of said railroad as the same are in said mortgage described; and,

Whereas, Said deed of trust or mortgage was executed to secure certain bonds, known as the General Mortgage Bonds of the Wabash, St. Louis & Pacific Railway Company; and,

Whereas, All the general mortgage bonds of said Wabash, St. Louis and Pacific Railway Company have since been surrendered and cancelled; and,

Whereas, The Wabash Purchasing Committee, composed of James F. Joy, Thomas H. Hubbard, O. D. Ashley, and Edgar T. Welles, now hold all the capital stock of said Des Moines and St. Louis Railroad Company in trust for the Wabash Railroad Company;

Now, Therefore, In consideration of the premises, be it

Resolved, By the Board of Directors of the Wabash Railroad Company, that the Central Trust Company and James  
487 Cheney, trustees, be, and they are hereby, requested to execute and deliver to the Des Moines & St. Louis Railroad Company a proper deed remising, releasing and quit-claiming unto said Des Moines & St. Louis Railroad

Company, its successors and assigns, all the right, title, interest, estate, claim and demand which they, or either of them, acquired, or now hold in or to the said Des Moines and St. Louis Railroad, by, through or under the aforesaid deed of trust or mortgage to them executed, as aforesaid, on or about said first day of December, A. D. 1881.

### **Defendants' Exhibit 235.**

#### **The Wabash Railroad Company.**

Directors' Meeting, March 7, 1899.

New York, March 7, 1899.

"To the Board of Directors,  
"Wabash Railroad Company,  
"New York, N. Y.

"Gentlemen,

"In order to facilitate the adjustment and final settlement of (the) accounts of the Wabash Purchasing Committee, and at the same time vest the legal title to all the capital stock and property of the Des Moines & St. Louis Railroad Company in the Wabash Railroad Company for an adequate consideration, after which said capital stock and railroad can be properly pledged and mortgaged by the Wabash Railroad Company as security for its proposed issue of bonds to an amount not exceeding One Million Eight Hundred Thousand dollars to be known as First Mortgage Gold Bonds, Des Moines Division, we, the undersigned, surviving members of said Committee, submit to you the following propositions:

"1st. We will make deeds or other proper instruments assigning and conveying to The Wabash Railroad Company all the Capital Stock of said Des Moines & St. Louis Railroad Company, and also conveying to the Wabash Railroad Company all our rights, title, interest and estate in and to the Des Moines & St. Louis Railroad, extending from the City of Des Moines to Albia in the State of Iowa, a distance of about sixty-seven miles.

"2nd. In consideration of the assignment and conveyance of said Capital Stock and railroad to The Wabash Railroad Company as aforesaid, the Wabash Railroad Company shall deliver to the undersigned, as such Purchasing Committee, as soon as issued, six hundred and seventy (670) of the bonds of said Company known as First Mortgage Gold Bonds, Des Moines Division or the proceeds thereof.

"3rd. The undersigned will then proceed, as soon as practicable, to adjust their remaining accounts and make report thereof to your Board, as provided in a former report of the Committee made to and accepted by you, and the undersigned will then transfer, convey, assign, set over and deliver to the Wabash Railroad Company on the terms stated in said former report, all the remaining railroads, stocks, bonds, money and other things of value remaining in their hands or standing in their names as such Purchasing Committee.

"Very respectfully yours,

"(signed) O. D. ASHLEY,

"THOS. H. HUBBARD,

"EDGAR T. WELLES,

"Surviving members

"Wabash Purchasing Committee."

489 Upon Motion of Mr. McHarg, duly seconded,

Resolved, That the proposition of the Purchasing Committee, as contained in their communication to the Board, dated March 7, 1899, be, and the same is hereby accepted; and the Secretary is hereby directed to spread the same upon the records.

The following form of proposed mortgage, referred to in the above letter of Col. Blodgett, General Counsel, was submitted to the meeting:

(Here follows mortgage above referred to)

Upon Motion, of Mr. Wyckoff, duly seconded,

Resolved. That the form of the mortgage to secure the bonds of the Company to be known as "First Mortgage Gold Bonds, Des Moines Division," to the extent of One Million Eight Hundred Thousand Dollars upon the property therein described, be and the same is hereby approved; and the President and Secretary are hereby authorized and directed to execute on behalf of this Company, said mortgage and the bonds therein described, and to deliver same to the Continental Trust Company of the City of New York, Trustee.

490

### Defendants' Exhibit 236.

#### The Wabash Railroad Company.

Stockholders' Meeting, October 10, 1899.

Whereas, The Board of Directors and Officers of this Company have executed its bonds for the sum of One Million

Eight Hundred Thousand Dollars (\$1,800,000), dated January 1, 1899, and due fifty (50) years after date, with interest at the rate of four per cent per annum, payable semi-annually, on the first days of January and July of each year, and have secured the same by a mortgage or deed of trust to the Continental Trust Company of the City of New York, as Trustee, on the Des Moines Division of the Wabash Railroad, extending from the City of Des Moines, through the Counties of Polk, Marion, Monroe and Appanoose, to Moulton in the State of Iowa, and on the Hannibal and Quincy Railroad, extending from East Hannibal, through the Counties of Pike and Adams, to the City of Quincy, in the State of Illinois, as said roads are now, or may be hereafter constructed, maintained and operated, and of all the franchises, real estate rolling stock and other property and appurtenances of said roads, as the same are in said mortgage described, and which said mortgage is in words and figures as follows, to-wit:

(Here follows mortgage above referred to.)

And, Whereas, By the terms of said mortgage or deed of trust the bonds of the Company therein described can only be issued to the extent of One Million Six Hundred Thousand Dollars (\$1,600,000), until such time as a majority in  
 191 interest of all the Stockholders of the Company shall, after sixty days' notice duly published, at a regular meeting, or at a special meeting duly called for that purpose, by resolution ratify and confirm said mortgage and expressly declare their intention and consent to have it operate as a lien upon all and every part of the property therein described for the equal benefit of the holders of all said bonds, to the full amount of One Million Eight Hundred Thousand Dollars (\$1,800,000).

Now, Therefore, Be It Resolved, That said mortgage is hereby in all things ratified and confirmed, and then the bonds therein described shall have been issued to the amount of One Million, Eight Hundred Thousand Dollars (\$1,800,000) in accordance with the terms and conditions of said mortgage, we hereby declare our intention and consent to have said mortgage operate as a first lien upon all and every part of the property therein described for the equal benefit of the holders of all said bonds to the full amount of One Million Eight Hundred Thousand Dollars.

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**Defendants' Exhibit 237.****The Wabash Railroad Company.**

Directors' Meeting, Oct. 5, 1897.

The following agreement which had been executed on behalf of The Wabash Railroad Company was presented to the Board.

(There is here inserted a copy of the agreement Exhibit No. 37 to the stipulation filed herein March 23, 1911.)

Mr. Ramsey stated that the reason for ratifying the old Des Moines Union contract was due to the fact that the Des Moines & St. Louis was the only Company bound by the old contract, as the Des Moines Northern & Western, having passed through the receivership, and been reorganized, it was not bound by the old contracts, and therefore in order to protect the interests of the Wabash and bind the Des Moines Northern & Western to bear its share of fixed charges, rental and expenses, the Wabash desired their ratification of the old contract, and after a number of meetings, the Des Moines Northern & Western agreed to ratify the old contract. In order to make the ratification complete it was thought best that the Des Moines Union, and Des Moines & St. Louis, and the Wabash Company, as operating the Des Moines and St. Louis, all become parties to the ratification; that there was no change in the terms of the old contract and that the ratification can only be in the interest of the Wabash Company, not only as a user of the property, but on account of increasing the value of the bonds held by the Purchasing Committee.

Upon Motion, duly seconded, Resolved, That the agreement dated July 31st, 1897 between the Wabash Railroad Co., the Des Moines Union Railway Company, and the Des Moines Northern & Western Railroad Company, ratifying and confirming the agreement made May 10, 1889, by the Des  
493 Moines Union Railway Co. the Des Moines & St. Louis Railroad Company, the St. Louis, Des Moines & Northern Railway Company, and the Des Moines & Northwestern Railway Company, for the use of the terminal facilities etc. of the Des Moines Union Railway Company, is hereby approved, confirmed and ratified.

**Defendants' Exhibit 238.****The Wabash Railroad Company.**

Purchasing Committee meeting, August 16, 1898.

To the Board of Directors of The Wabash Railroad Company:

Your Purchasing Committee, established and continued under an agreement entered into by them with the General Mortgage and Collateral Trust Bondholders of the Wabash, St. Louis & Pacific Railway Company, dated July 15, 1885, and under an agreement entered into between Henry K. Mellarg, John T. Terry, Cyrus J. Lawrence and T. B. Atkins, called therein the Bondholders' Committee; James F. Joy, O. D. Ashley, Thomas H. Hubbard and Edgar T. Welles, called therein the Purchasing Committee; the Central Trust Company of New York and the Wabash Western Railway Company, called therein the Railroad Company, dated November 21, 1887; beg leave to submit for your information and for the information of the Bondholders and Stockholders of the Company, the following, as the final report and statement of their accounts in the premises:

First: As such Committee they received from the properties and assets mentioned in the 6th Sections of said agreements, sums of money as follows:

Contributions from holders of General Mortgage and Collateral Trust Bonds of the Wabash, St. Louis & Pacific Ry. Co. . . . .	\$ 493,760.55
Contributions from holders of Preferred and Common Stock, . . .	3,399,785.86
Penalties on delayed subscriptions, . . .	20,191.00
Interest on delayed subscriptions, . . .	13,590.51
Sale of Des Moines & Northwestern R. R. . . . .	288,420.00
9% Interest on delayed payments, Des Moines & Northwestern Railroad, . . . . .	\$ 23,343.67
Sale of St. Louis, Jerseyville & Springfield Railroad, . . . . .	170,000.00
Interest on delayed payments St. Louis, Jerseyville & Springfield R. R. . . . .	7,218.33
Sale of Humeston & Shenandoah R. R. Bonds . . . . .	450,000.00
Coupons of Humeston & Shenandoah R. R. Bonds, . . . . .	46,970.00

Surplus earnings of Humeston & Shenandoah Railroad, .....	17,500.00	
Sale of Peoria, Pekin & Jacksonville & Springfield & Northwestern R. R., .....	1,170,000.00	
Interest on deferred payments, Peoria, Pekin & Jacksonville & Springfield & North Western Railroads, .....	25,392.41	86,128,173.25

Second. The Committee received from miscellaneous sources funds, as follows:

Receivers' checks not presented for payment, .....	\$ 103,30.	
Money advanced to Special Master, Edmund T. Allen, and refunded to Committee, .....	13,262.30	
Insurance paid by Receiver McNulta and refunded to Committee, .....	8,637.96	
Money advanced to pay judgment of James Short vs. W., St. L. & P. Ry. Co. and refunded to Committee, .....	9,348.47	
Refund of balance advanced to Chicago & Western Indiana R. R. Co. in March, 1886, with which to pay judgment for personal injuries, .....	1,279.97	
From sale of Wabash Railroad Company's First & Second Mortgage Bonds, .....	6,123,989.16	
496 From sundry bills and pooling balances, .....	\$ 676.77	
From Post Office fines remitted, ..	587.16	
From subsidies voted to St. L., J. & S. R. R., .....	24.90	
Surplus Earnings Champaign & Southeastern Ry., .....	3,589.24	

## THE DES MOINES UNION RT. CO., ET AL.

From sale of bonds and stock, Des Moines Union Ry Co., .....	382,743.80
From sale of steamer Morley, ....	20,000.00
From sale of lots in St. Joseph, Mo., .....	25,000.00
From sale of stock St. Joseph, T. D. Co., .....	3,500.00
From sale of stock Miss. Valley Trans. Co., .....	87,000.00
From sale of stock Peoria & Pekin Union Ry. Co., .....	50,000.00
From sale of land in Chicago, .....	48,765.82
"    "    "    "    "    Peoria, .....	20,000.00
From sale of stock Quincy Bridge Co., .....	6,825.00
From sale of lots in Quincy, ....	5,125.00
From sale of one bond Great Western Ry Co., .....	1,113.70
From sale of bonds Havana, Rantoul & Eastern R. R. Co., ....	4,875.00
From sale of three bonds, Chicago Division, .....	4,096.87
From sale of one share Memphis Cotton Exchange, .....	224.65
From sale of one Chicago & Erie Income Bond, .....	516.25
From sale of Chicago & Erie Scrip, .....	70.00
From sale of one odd table, ....	10.00
From profit on Debenture Scrip .....	28.00
97 From profit on Lake Erie Transportation Company's Bonds, .....	96.25
From dividends on Peoria & Pekin Ry. Stock, .....	27,000.00
From dividends on stock Quincy Bridge Co., .....	5,822.70

From dividends on stock Miss. Valley Trans. Co., .....	32,480.00
From dividends on stock Kansas City U. D. Co., .....	20,000.00
From rentals on Chicago property, .....	13,384.83
From rentals on property in Quincy, .....	800.00
From rebates Toledo & Wabash Elevator Co., .....	12,404.77
From subsidies Quincy, Missouri & Pacific R'y. Co., .....	2,282.94
From surplus earnings Detroit Division, .....	62,431.89
From James F. Joy on account surplus Detroit Div., .....	3,450.13
From interest on sundry securities bought for Purchasing Committee, .....	18,118.06
From interest allowed by Central Trust Co. on deposits, .....	5,413.43
From interest allowed on deposits, .....	73,196.48
From interest on bonds and stock Des Moines Union R'y. Co., ..	103,773.22
From interest on bonds Lake Erie Trans. Co., .....	1,951.96
From interest on Bonds Des Moines Northwestern R. R. Co., .....	360.00
From net earnings American Refrigerator Transit Co., .....	41,956.65
From interest on dividends Quincy Bridge Co., .....	1,039.91

498	From rent on property in Burlington and Peoria, ...\$	55,528.30	
	From surplus earnings and rentals Lake Line steamers, ....	53,519.43	
	From interest on Wabash Railroad First Mortgage Bonds, .....	21,687.50	
	From interest on Wabash Railroad Company's Second Mortgage Bonds, .....	9,300.00	
	From overdue coupons Wabash Railroad Second Mortgage Bonds, .....	1,512.50	
	From interest on bonds Chicago Division deposited at par, ..	343.41	
	From detached coupons when bonds were issued, .....	781.00	
	From Receiver Clarinda Branch on account rental of rolling stock, .....	2,965.16	
	From Des Moines Union R'y Co.,	110.80	
	From condemnation of right-of-way, .....	<u>100.00</u>	7,395,254.64

Third. The Committee has paid out on account of advances made by the Central Trust Company of New York, and on account of interest on certificates issued by said Trust Company; on account of indebtedness incurred by the Receivers and by the Committee, as their successors, and on account of the expenses of re-organizing the main lines purchased, under the name of The Wabash Railroad Company, sums of money as follows:

To Humphreys & Tutt, Receivers  
(under order of Court) to be  
applied on their indebted-  
ness, ..... 2,811,853.39

To Central Trust Company of New  
York for payment of interest  
on First Mortgage Bonds,  
rendered necessary on ac-  
count of inadequate earnings  
499 of East lines while in posses-  
sion of Receivers, ..... 4,153,556.78

Less coupons collected from			
Receiver McNulta	516,410.88		
Coupons on Detroit Div.	112,358.37		
Coupons on Wab. R'y "Sevens"	14,000.00	642,769.25	3,510,787.53
On account of liabilities of McNulta, Receiver		208,983.57	
On account of expenses of incorporating Wabash Western R'y Co.		45,025.00	
On account of expenses of incorporating Wabash Railroad Company		52,000.00	
On account of payments to Trustees of mortgages		18,500.00	
On account of legal expenses, Court Costs, etc.		352,946.42	
On account of reorganization expenses		488,259.67	
On account of loss in operating Des Moines & St. Louis Railroad		279,996.57	
On account of loss in operation Attica, Covington & Southern R. R.		8,167.06	
On account of loss in operation Des Moines & Northwestern Railroad		1,988.12	
On account of interest paid on advances		129,877.56	
On account of interest on advances by Wabash Railroad Company		221,693.08	
On account of claim of Omaha & St. Louis R. R. Co. for use of rolling stock by Humphreys & Tutt, Receivers		52,280.96	
On account of sundry judgments against Receivers		27,085.52	8,200,444.45

500 Fourth. The Committee has paid out on account of miscellaneous transactions connected with the discharge of their duties under said agreements, sums as follows:

For mortgage bonds and accrued interest not coming in under reorganization agreement, ..	\$4,846,897.76	
For interest on Wabash Railroad Company's First Mortgage Bonds, accrued prior to July 1, 1889, .....	277,158.34	
Interest on Burlington Real Estate notes, .....	40,580.00	
Burlington real Estate Notes, reduction of principal, .....	12,000.00	
Taxes on property in Chicago and Burlington, .....	41,805.06	
Proportion cost Round House, Des Moines, .....	6,116.80	
Supplies turned over to Des Moines Union R'y, .....	8,425.00	
Building sidewalk at Albia,.....	24.15	
Expense in connection with Burlington real estate,.....	32.37	
Recording deed to Peoria property, .....	2.75	
For one share of C. & W. I. Stock for voting Director, .....	100.00	
Advances to Lake Erie Transportation Company, account sinking Fund, .....	75,577.81	
On account of loss in operation Eel River Railroad,.....	39,597.86	5,348,317.90

## Recapitulation.

Receipts from asset mentioned in Sixth Sections,  
of said agreements, . . . . \$6,126,175.33

Expenditures for the payment of  
which certain properties were  
pledged under 6th Section of  
Agreement of Nov. 21, 1887, . . 8,209,444.45

Expenditures in excess of receipts, . . . . \$2,083,269.12

Receipts from Miscellaneous  
sources . . . . . \$7,335,254.64

Miscellaneous Expenditures, . . . . 5,348,317.90

Miscellaneous Receipts in excess of  
Expenditures . . . . . 2,046,936.74

Net Excess of Miscellaneous Ex-  
penditures over Receipts, . . . . 36,332.38

## Explained as follows:

Balance due Wabash R. R. Co., . . \$ 37,841.61

Less:

Cash on hand March 1, 1898, . . . 1,509.23 36,332.38

Fifth. Your Committee now has in its hands and standing in its name, the property and assets described in the schedule hereto attached, marked "Schedule A," all of which they are ready to assign, transfer and deliver to The Wabash Railroad Company or to such other person, or persons, as The Wabash Company may direct, upon receiving proper indemnity against any and all claims that may exist or that may at any time be asserted against them, or any of them, as such Committee, or as a member of such committee.

They also submit herewith a form of conveyance and assignment of said property and assets, and of all other property and assets coming to them as such Committee, which the several surviving members are ready to execute and deliver to The Wabash Railroad Company, or to such other person or persons, as The Wabash Railroad Company may direct, upon being indemnified as aforesaid.

Since the organization of your Committee, Mr. James F. Joy of Detroit, one of its most valued members, has departed this life, and this report is, therefore, submitted by the undersigned as the surviving members thereof.

And, having fully discharged the trusts devolving upon them under said agreements, the Committee asks that this, their final report, be accepted, and that they be severally, and as such Committee discharged from all further obligations, liabilities and duties under the same.

O. D. ASHLEY,  
THOS. H. HUBBARD,  
EDGAR T. WELLES.

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"Schedule 'A'."

List of Real Estate and Personal Property now  
in the hands, or standing in the name of the  
Wabash Purchasing Committee.

Real Estate.

Lots in Burlington, Iowa, Des Moines County:

All of lots No. 13, 13a, 14, 15, 15a, 16, 17, 18, 19, 20, 21, 22, 23, and 24, in the City of Burlington, according to the original plat and survey of said City, subject to mortgage for \$56,000.

503 Real Estate in Pekin, Illinois, Tazewell County:

Lots 8 and 8, Block 41, and lot 9 in Block 40, in the City of Pekin, with all the side tracks and improvements situated thereon, and also all side tracks lying west of the track formerly known as the "Main track" of the Peoria, Pekin & Jacksonville R. R. Co., and situated between Elizabeth Street and Susanah Street in said City of Pekin, County of Tazewell, and state of Illinois.

Real Estate in Quincy, Illinois, Adams County:

Block Nos. 4, 5 and 6 of Henry Von Phul's Subdivision of the fractional Sectional Section No. 10 and that part of the northwest quarter of fractional section 11, all in Township 2, South, Range 9 west of 4th P. M., which lies west of Front Street in the City of Quincy, Adams County, Illinois, as laid off by said Von Phul on September 10, 1852.

Also

A tract of land situated in the City of Quincy, County, of Adams and State of Illinois and being a part of the south

$\frac{1}{2}$  north west  $\frac{1}{4}$ , section 35, Township 1 South, Range 9 west, more particularly described as follows: Beginning at a point 50 rods north of the southwest corner of the northwest  $\frac{1}{4}$ , section 35, Town and Range aforesaid, thence running north along the west line of said quarter section 30 rods, thence east to the west line of the Third Street in the City of Quincy, produced north, thence south along the west line of said Third Street produced, 30 rods, thence west to the place of beginning, containing about ten acres more or less. Excepting out of the above described premises so much as has heretofore been conveyed to the Northern Cross Railroad for a right of way.

Real Estate in the City of Chicago:

All of lots 1, 2, 3, 4, 5 and 6, Block 9, in Springer & Fox's addition to Chicago.

Also

All that part of lot 32 in the Assessors Division of the N. W.  $\frac{1}{4}$  and the W.  $\frac{1}{2}$  of the N. E.  $\frac{1}{4}$  of section 32, T. 39, N. R. 14 East of the 3rd P. M. lying east of the center of the South Branch of the Chicago River.

Also

All of lot or block 13 in the Assessors Division of the N. W.  $\frac{1}{4}$  and West  $\frac{1}{2}$  of N. E.  $\frac{1}{4}$  of Section 32, T. 39 N. R. 14 east of the 3rd P. M.

504 In Brown's addition to Chicago, situate in N. E.  $\frac{1}{4}$  Section 32, T. 39 R. 14 E. All of lots 8, 41 and 42 in Block 3 of said addition.

Lots 8, 9, 32, 39, 40, 41, 43, 44, 47 and 48 in Block 4 of said addition.

Also

In Gallagher's Subdivision of S.  $\frac{1}{2}$  Block 9, Canal Trustees Subdivision of section 33, T. 39 N. R. 14 east of 3rd P. M.

All of Lots 19, 20, 27 and 28 in Block 2 of said Subdivision.

All of lots 23, 24, 31, and 32 in block 1 of said Subdivision.

Also

In T. J. Foster's Subdivision of part of block 10 in Canal Trustees Subdivision of section 33, T. 39 N. R. 14 East of 3rd P. M.

Lots 1 and 37 in Block 1,

Lots 1 and 37 in Block 2.

## Also

In Gano Subdivision of part of block 10 in Canal Trustee Subdivision of section 33, T. 39, N. R. 14 East of 3rd P. M.

Lots 46, 47 and 48 of said block 10.

## Also

In Assessors Division of Block 11 of Canal Trustees Subdivision of section 33, T. 39, N. R. 14 east of 3rd P. M.

Lots 61, 62, 99 and 100 of said block 11.

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 Personal Property and Assets.

20,000 shares of stock of the Des Moines & St. Louis R. R. Co., Estimated value, .....	\$450,000.00
750 shares of stock of the Attica, Covington & Southern R. R., Estimated value, .....	143,800.00
995 shares of stock of the Champaign & Southeastern R. R., Estimated value, .....	116,600.00
Balance due on sale of Peoria & Pekin Union R'y. Stock, .....	100,000.00
305 Balance due on sale of the St. Louis, Jerseyville & Springfield R. R., not considered available, .....	\$ 80,000.00
4,000 shares of the stock of the Lake Erie Transportation Co. ....	
State of Missouri, }	
City of St. Louis }	ss.

E. B. Pryor, states that he is the Assistant Auditor of The Wabash Railroad Company; that he has examined in detail the books and accounts of the Purchasing Committee of the Wabash, St. Louis & Pacific Railway Company, and also the attached report of said Committee to the Board of Directors of The Wabash Railroad Company, and he believes said report to be correct.

E. B. PRYOR,  
Assistant Auditor,  
Wabash Railroad Company.

Subscribed and sworn to before me, the undersigned Notary Public within and for the City of St. Louis, State of Missouri, this 16th day of July, 1898.

In Testimony Whereof I have hereunto set my hand and official seal, the day and year aforesaid.

Commission expires Nov. 2, 1901,

Seal

B. C. WINSTON,

Notary Public City St. Louis, Mo.

506 Upon Motion, duly seconded, the following preamble and resolution were adopted:

Whereas, O. D. Ashley, Thomas H. Hubbard and Edgar T. Welles, the surviving members of the Wabash Purchasing Committee created under the agreements of July 15, 1885, and November 21, 1887, have submitted to the Board of Directors of The Wabash Railroad Company a final statement and report of their accounts and doings as such Committee, together with a schedule of the assets and property remaining in their hands and standing in their names, and a form of conveyance and assignment of all said property and assets, and of all other property and assets that have come to them, or in which they acquired any interest or estate, as such Committee, and which deed the several surviving members of said Committee are now ready to execute to The Wabash Railroad Company, upon receiving proper indemnity against any claims that may exist or that may at any time be asserted against such Purchasing Committee, or any member thereof; and,

Whereas, Said report, and the form of said conveyance and assignment are satisfactory to the Board of Directors; Now, Therefore, Be It

Resolved, That said final report and statement of the accounts and doings of said Committee under said agreements, be, and the same hereby are approved, and upon the execution by the surviving members of said Committee of a conveyance,

or assignment, to The Wabash Railroad Company of  
507 the property and assets now in their hands and standing in their names, in the form submitted with their said report, they, and each of them, and the heirs, executors, administrators and assigns of them, and each of them, shall be, and they hereby are, forever released and discharged from all and every future liability and claim of every kind whatsoever, whether at law or in equity on account of said agreements, and on account of their acts and doings, and the acts and doings of each and all of them under said agreements or either of them. And in consideration of the conveyance and assignment by the surviving members of said Committee, of the aforesaid assets and property to The Wabash Railroad Company, said Company will assume, and does hereby assume, the payment of every debt, claim and liability of every

kind whatsoever now existing, or that may be hereafter adjudged against said Committee, or any member of said Committee, on account of any and every act, contract or thing done, made or suffered by them or either of them as such Committee, or as a member thereof; and The Wabash Railroad Company does hereby agree to indemnify and hold harmless the said Committee and each member thereof, their and each of their heirs, executors, administrators and assigns, from and against all claims that may at any time exist or be asserted against them, or either of them, in connection with or on account of any of the matters hereinbefore mentioned. And the proper officers of said Company are hereby authorized and directed to execute the conveyance above mentioned in evidence of the acceptance thereof by said Company.

### Defendants' Exhibit 239.

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#### The Wabash Railroad Company.

Directors' Meeting, April 4, 1899.

The following letter was read to the meeting:

St. Louis, March 18, 1899.

O. D. Ashley, Esq.

President, New York.

Dear Sir:—

In 1882 the Wabash, St. Louis & Pacific R'y. Co. bought from Hoyt Sherman of Des Moines the strip of land described in the enclosed deed, but the title was taken in the name of Col. James F. How, trustee, and in order to make it clear that How held as trustee for the Wabash Co., he executed a declaration of trust setting forth that as the Wabash Co. had paid the purchase money he held as its trustee.

It seems, however, that How never made any deed to any one, and while the records in Mr. Lincoln's office show that he had the declaration of trust, he has never been able to find it since the fire. The property in question was conveyed, in 1889, along with other lots in Des Moines, to the Des Moines Union R'y. Co., but the legal title still remained in How. Some months ago the facts were presented to me, and at my request Mrs. How and her two sons executed to the Wabash Railroad Company a quit claim deed of all their rights and interests.

I sent that deed up to Mr. Hubbell, and he now writes me that in order to complete their title they should have a quit claim from the Wabash Company to the Terminal Company.

I have therefore, prepared the enclosed deed for you to  
509 execute for the Wabash R. Co.

I think it entirely right for you to do so, and Mr. Hub-  
bell is quite anxious to have it done and placed on record be-  
fore our new mortgage is recorded. The mortgage only covers  
our leasehold interests in the Des Moines terminals, but in or-  
der to satisfy Mr. Hubbell, who has been doing considerable  
for our accommodation in the past two or three weeks, I would  
be glad to have you sign and acknowledge this quit claim deed,  
and return same to me at your earliest convenience.

Very truly yours,

(Signed) WELLS H. BLODGETT.

The President stated that, to carry out Col. Blodgett's re-  
quest without delay, he had executed the deed referred to, in  
accordance with the authority conferred by the following pa-  
per:

New York March 21, '90,

We, the undersigned, Directors of The Wabash R. R. Co.,  
hereby authorize the President to execute on behalf of the said  
Company quit claim deed to the Des Moines Union Railway  
Co. and referred to in Col. Blodgett's letter of March 18 '89  
to President Ashley.

EDGAR T. WELLES  
S. C. REYNOLDS  
GEO. J. GOULD,  
RUSSELL SAGE  
THOS. HUBBARD  
CYRUS J. LAWRENCE,  
O. D. ASHLEY.

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The following is a copy of the deed in question:

Know all Men by these Presents: That the Wabash Rail-  
road Company, a consolidated corporation of the States of  
Missouri, Illinois, Indiana, Ohio and Michigan, in considera-  
tion of the sum of One Dollar in hand paid by The Des  
Moines Union Railway Company, a corporation of the State  
of Iowa, has quit claimed and released, and by these presents  
it does quit claim and release unto the said Des Moines Union  
Railway Company, all its right, title, interest and estate in  
and to the following described premises, situated in Polk  
County, and State of Iowa, to-wit:—

Commencing at a point on the section line eighteen hundred  
and eighty three (1883) feet south of north-west corner of  
Section No. eight (8) in township No. seventy-eight (78)

North Range No. Twenty-four (24) west, thence north  $61\frac{1}{2}$  east on a line parallel to and fifty (50) feet from the center line of the Des Moines Union Railway Company's track as now constructed five hundred and seventy-eight (578) feet; thence north  $64\frac{1}{2}$  east eight hundred (800) feet; thence north  $58$  east eight hundred and seventy-two (872) feet to the east line of lot number four (4) of the Official Plat of the Northwest quarter of said Section No. eight (8); thence south along said line one hundred and twenty-five feet to the north line of the right of way of the C. R. I. & P. Ry. Co., thence south  $55$  west along said right of way line of said C. R. I. & P. Ry. Co. (which is fifty feet from centre of track) twenty three hundred and thirty (2330) feet to the Section line; thence north along the Section line three hundred and fifteen (315) feet to the place of beginning.

In Testimony whereof, the Wabash Railroad Company has caused these presents to be signed in its name by its President and attested by its corporate seal, this 20th. day of March, A. D. 1899.

THE WABASH RAILROAD COMPANY,

By O. D. Ashley,  
President.

Attest.

J. C. Oiteson  
Secretary.

Upon Motion duly seconded, the action of the Directors, set forth in the foregoing paper, and the action of the President, were confirmed and ratified.

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### Defendants' Exhibit 240.

**Wabash, St. Louis & Pacific Railway Company.**

Adjourned Meeting of Purchasing Committee, New York,  
August 6th, 1886.

The question of the sale of the interest of the Committee in the Des Moines & Northwestern Ry. Co., having been introduced, Mr. Welles of the Sub Committee, appointed at the meeting of July 26th, made a verbal report advising the acceptance of the propositions made by Messrs. Polk and Hubbell; whereupon on motion of Mr. Ashley, it was

Voted That this Committee recommend the acceptance of the proposition of Messrs. Polk and Hubbell to buy the interest in the Des Moines Northwestern Railway Company for first mortgage six per cent bonds to the amount of \$450,000.00 according to the terms and conditions understood by Mr. Joy;

the bonds to be guaranteed principal and interest by Messrs. Polk and Hubbell and the sale to include only one quarter of the terminal property formerly owned by the Wabash Railway Company and General Dodge; this sale leaving the Purchasing Committee or the new Wabash Company in possession and ownership of one-half of said terminal property.

Some discussion followed in regard to the proposed modifications of the proposition of the Purchasing Committee suggested by the Committee of the Bondholders, but no formal action was taken.

Adjourned,

O. D. ASHLEY, Secy.

513

#### Defendants' Exhibit 241.

#### Wabash, St. Louis & Pacific Railway Company.

Meeting of Purchasing Committee, New York, Sept. 27, 1887.

The Secretary read two papers containing suggestions in regard to the transfer of the Des Moines & No. Western R. to Polk & Hubbell or the new Company and as to the formation and development of Terminal Company, to be called the Des Moines Union Company.

The suggestions in regard to the Des Moines & N. W. were as follows:

1st. The Purchasing Committee to turn over the possession of the Des Moines & N. W. Ry. to Messrs. Polk and Hubbell or to the new corporation to be formed, October 1st, 1887.

2nd. All accounts prior to October 1st to be settled by the Wabash Western for the Purchasing Committee and all earnings prior to that date to be collected by said N. W. Company.

3rd. The new Company or Messrs. Polk and Hubbell to assume all necessary repairs of the D. M. & N. W. road, commencing the same as soon as the condition of the road requires such improvements and repairs.

4th. This arrangement to continue until the contemplated decree and sale have been completed and the property has been legally acquired according to the agreement.

5th. In case of any obstruction or delay in carrying out the plan as detailed in the agreement to such an extent as to render it doubtful of completion within a reasonable time, it shall be in the power of either the Purchasing Committee

or Messrs. Polk & Hubbell to restore the status of the  
 514 property by surrender and delivery to the Purchasing  
 Committee upon thirty (30) days notice,—but in case  
 of such restoration Messrs. Polk & Hubbell or the new Com-  
 pany shall be entitled to any expenditure they may have made  
 in repairing or operating the road over and above the amount  
 of its net receipts, and in case they have received net earnings  
 in excess of such expenditure, then the balance constituting  
 such excess shall be paid over to the Purchasing Committee."

and on motion of Mr. Joy the transfer was authorized and  
 approved in accordance with the suggestions.

Messrs. Joy, Hubbard, Welles, Ashley and General Swayne  
 were present at this meeting.

and on motion of Mr. Ashley

Voted that the question of transfer of the lots at Des Moines,  
 Iowa, in the name of J. F. How, Trustee, to the Des Moines  
 Union Company, be referred to General Swayne, it being un-  
 derstood that when such conveyance is made the Terminal  
 Company shall pay for the cost of said lots, including taxes,  
 and interest, in first mortgage bonds of the Terminal Com-  
 pany.

515

### **Defendants' Exhibit 242.**

Meeting of Purchasing Com. at N. Y.

Dec. 22, 1887.

Mr. Ashley submitted a memorandum of proposed organiza-  
 tion of the Des Moines Union Depot Co. and suggested a plan  
 of including the Chicago & N. W. in the number of lessees by a  
 sale of one quarter part of the stock. No vote was taken but  
 the suggestions of Mr. Ashley were informally approved.

516

### **Defendants' Exhibit 243.**

**Wabash, St. Louis & Pacific Railway Company.**

Meeting of Purchasing Committee,

Meeting May 30th, 1888. On motion of General Hubbard  
 Mr. Ashley was authorized to use not exceeding \$2,000 dollars  
 of the bonds of the Des Moines Union Depot Company for the  
 purchase of six switching engines and engine lathes for the  
 use of the Wabash Western Ry. Company upon condition that  
 the property thus purchased shall be kept in the name of and  
 under the control of the Purchasing Committee.

**Defendants' Exhibit 244.****Wabash, St. Louis & Pacific Railway Company.****Meeting of Purchasing Committee.**

February 18th, 1890. New York, Feb. 18th a meeting of the Purchasing Committee was held at the office of the Wabash Railroad Company. Present, Messrs. Joy, Hubbard, Welles, and Ashley.

The minutes of previous meetings were read and approved.

Mr. Ashley reported that he had sold to F. M. Hubbell of Des Moines, Iowa, \$135,000 of the Des Moines Union Railway Company mortgage bonds, out of \$270,000 held by the Committee at their par value, and accrued interest in cash, the sale carrying also one quarter part of the interest of the Committee in the stock of the Des Moines Union Railroad Company. The amount had been paid and credited to the Purchasing Committee by the Treasurer of the Wabash Railroad Company, and the bonds delivered.

On motion of General Hubbard, the sale and settlements were approved.

Mr. Ashley also submitted a proposition he had made to F. M. Hubbell of Des Moines, Iowa, for a sale of the \$450,000.00 mortgage bonds of the Des Moines Northwestern Railway Company, subject to the ratification of the purchasing Committee and the Wabash Railroad Company.

This proposition was as follows:

"Chicago, February 11, 1890.

To F. M. Hubbell, Esq.

— Des Moines, Ia.

Dear Sir:—

"In behalf of the Purchasing Committee of the Bondholders of the Wabash, St. Louis & Pacific Ry. Company, I am  
518 authorized to accept a proposition from you to buy the \$450,000.00 bonds issued May 20th, 1888 upon the following terms and conditions:

First, The amount to be paid by you for said bonds shall be \$400,000.00, payable on or before March 1st, 1890, as follows: You to deliver to said Purchasing Committee on or before said date \$115,000.00 in the bonds of the Des Moines Union Railway Company, which shall be part of the \$400,000.00 aforesaid. It is understood that \$112,000.00 of the said \$115,000.00 Des Moines Union Railway Company bonds are now held in trust for the Purchasing Committee by Gen'l.

Wager Swayne; said bonds carrying coupons due May 1st, 1890. The balance of said \$400,000 viz., \$284,000.00 to be paid in ten monthly installments, as follows: April 1st, 1890 \$28,500.00 May 1, 1890 \$28,500.00, June 1st, 1890, \$28,500.00, July 1st, 1890, \$28,500.00, August 1st, 1890 \$28,500.00, Sept. 1st, 1890, \$28,500.00, October 1st, 1890 \$28,500.00, Nov. 1st, 1890 \$28,500.00, Dec. 1st, 1890 \$28,500.00, and January 1st, 1891 \$28,500; each installment bearing interest at the rate of six per cent from March 1st, 1890.

I am also willing to agree as one of the Purchasing Committee that upon the payment of each installment, as aforesaid, to deliver to you \$45,000.00 in bonds of the Des Moines & Northwestern R. Co., but as I have not consulted my associates upon this point, this clause must be subject to the ratification of the whole committee, which I will try to secure.

Second. It is understood that the sale, terms and conditions, as before stated, are to be subject to the approval and ratification of the Board of Directors of the Wabash R. R. Company, but I will agree to recommend to the Board all, or so much of the foregoing as may be ratified by the Purchasing Committee.

Third. It is also understood that in case you accept the foregoing proposition you shall procure such action on the part of the Des Moines & Northwestern Ry. Co., as will release the Purchasing Committee and the Wabash Railroad Company from liability on account of the contract heretofore made between them and the Des Moines & Northwestern Ry. Co., for the sale of said property last aforesaid.

Fourth: It is understood that you will accept the undertaking of the Wabash Railroad Company to indemnify you as purchaser against any claim or liens which may exist upon any of the property sold by the Purchasing Committee to Polk & Hubbell, or the Des Moines & Northwestern Railway Company.

Fifth: You are to accept or decline this proposition on or before March 1st, 1890.

(Signed) O. D. ASHLEY, Sec'y.,  
Purchasing Committee."

On motion of Mr. Joy it was voted to approve the proposition made in the foregoing letter to Mr. Hubbell.

Mr. Ashley stated that the Board of Directors of the Wabash Railroad Company had also ratified the proposition.

**Defendants' Exhibit 245.**

**Wabash, St. Louis & Pacific Railway Company.**

**Meeting of Purchasing Committee.**

New York, July 16th, 1890.

Mr. Ashley also reported expenditures made by the Central Trust Company, by checks drawn by him since Oct. 31st, 1889, amounting to \$130,953.54. Mr. Ashley also gave a memo statement of the account of the Central Trust Company with the Committee as follows:

**Debit.**

May 21st, 1890. Balance of account rendered  
by Central Trust Company .....\$145,660.58  
Checks drawn since ..... 1,257.26

**Credit.**

Interest on \$115,000.00 Terminal bonds \$2875.00  
F. M. Hubbell Terminal Bonds ..... 7736.00  
Debenture Bonds .....54000.00  
On D. M. & N. W. paid by G. M. Dodge.. 9500.00  
Paid by F. M. Hubbell on sale \$50,000  
DMU Bonds .....10000.00  

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\$84111.00

Approximate balance July 11th, 1890 \$67801.64  
to debit of Purchasing Committee, not including interest.

Mr. Ashley also reported a sale of \$50,000 of the Des Moines Union Depot & Company bonds and 1/8 of the stock of that Company to F. M. Hubbell for \$57,736.00, being par value and accrued interest on the bonds and 15% on the stock. On motion duly seconded this sale was approved.

Mr. Ashley also reported the completion of the sale of  
521 the interest in Des Moines & Northwestern R. Co. referred to in the letter of February 11th, 1890, per record of February 18th, and stated that the sale had been approved by the Board of Directors of the Wabash Railroad Company.

This sale was also approved by the Committee.

**Defendants' Exhibit 246.**

**Wabash, St. Louis & Pacific Railway Company.**

**Meeting of Purchasing Committee.**

March 29th, 1897, Committee meeting. Mr. Ashley stated that he had been trying to sell \$150,000 of Peoria & Pekin Union

Railway Company stock, and wanted authority to use his discretion in effecting a sale, as he might desire to close a trade without further consultation, and this was granted.

Mr. Ashley stated also that he had nearly succeeded in selling the Des Moines Union Railway mortgage bonds (\$204,000) but had been obliged to suspend negotiations on account of the interference with the old agreement, caused by the foreclosure of the Des Moines & Northwestern and the Des Moines & Northern, which roads have since been consolidated. A new agreement is under way which, when executed, will remove this trouble. Meantime, the old agreement is binding on all the parties, during the period of occupation.

523

#### **Defendants' Exhibit 247.**

#### **Wabash, St. Louis & Pacific Railway Company.**

Meeting of Purchasing Committee.

New York, Oct. 29, 1897. Purchasing Committee meeting, Messrs. Ashley & Hubbard present.

Mr. Ashley reported the sale of \$75,000.00 of the Des Moines Union Railway Company terminal bonds at 90-1/2 per cent, and accrued interest, and stated that he had paid over to the Treasurer of The Wabash Railroad Company \$67,875.00 to the credit of the Purchasing Committee. He stated also that he hoped to sell the balance of the bonds during the ensuing month.

Mr. Ashley also reported that negotiations were pending for the sale of \$150,000.00 of Peoria & Pekin Union Stock at 90 per cent, and hoped to bring that also to a conclusion. He also stated that he had several parties talking about the purchase of the Des Moines & St. Louis road, but could report nothing definite at present.

524

#### **Defendants' Exhibit 248.**

#### **Wabash, St. Louis & Pacific Railway Company.**

Meeting of Purchasing Committee.

March 1st, 1898, Meeting of Purchasing Committee, Mr. Ashley reported a sale of the balance of the Des Moines Union Railway Company mortgage bonds, viz: \$129,000 together with \$36,000 in the treasury of the Wabash Railroad Company at 90-1/2 and interest net. Also, sale of \$150,000 Peoria & Pekin Union Railway Company stock to the Peoria & Pekin Union Railway Company at par, receiving therefor, \$50,000 in cash and the notes

of the Peoria & Pekin Union Railway Company at par, \$100,000 on six and twelve months, \$50,000 each at six per cent. interest, with the entire amount of stock (except two shares) as collateral security. Mr. Ashley also stated that he had had further negotiations with the Chicago, Fort Madison and Des Moines Railway Company representatives in regard to a purchase of the Des Moines & St. Louis line, without having yet received a definite offer.

525

**Defendants' Exhibit 249.****Wabash, St. Louis & Pacific Railway Company.****Memorandum—1899.**

The transfer of assets remaining in the possession of the Purchasing Committee having been delayed in various ways, and especially by the proposed construction of the line between Moulton and Albia, by which line of railway the entire line of the Des Moines & St. Louis from Albia to Des Moines can be utilized, it became necessary for the Committee to transfer that line to the Wabash Railroad Company. This was accordingly done and the Committee received from The Wabash Railroad Company \$670,000 for the same. This amount, having been paid to the Wabash Railroad Company, was credited to the Purchasing Committee.

The accounts of the Committee having been examined by E. B. Pryor, Assistant Auditor of the Wabash Company on the ..... 1899, the Board of Directors of that Company passed resolutions holding the Committee harmless and accepting the accounts of the Committee, a deed conveying the property in the hands of the Purchasing Committee was executed as of date of August 18th, 1898, and the functions of the Committee have ceased, except as to outstanding accounts with the railway Share and Agency Company of London, November 1st, 1899. This last account is necessarily kept open in connection with the reorganization plan, under which certain debenture bonds and Stock are still to be exchanged and on which certain assessments and penalties are due.

O. D. ASHLEY, Secy.

526

**Defendants' Exhibit 250.**

Whereas the Narrow Gauge Railway Construction Company of Iowa did heretofore to-wit: on the 8th day of Dec. 1880 enter into a contract with the Des Moines North Western Railway Company and the Wabash St. Louis & Pacific Railway Company, whereby it agreed to build certain extensions of the Des Moines Company's road.

And Whereas the Wabash Company by the terms of said contract as a consideration for furnishing its bonds to aid in such extensions and taking a lease of said road, became entitled to one-half of the Stock of the Des Moines road and will be jointly interested in the same with the Construction Company.

And Whereas it is to the interest of both parties hereto that the same shall be prudently and economically constructed.

Now therefore to that end it is agreed by and between the parties hereto

That if said extension can be completed and equipped for less than the avails of the 7000 per mile in Bonds provided for in said contract in addition to the subsidies acquired along the line of said extension, then so much thereof as shall not be used shall be returned to the Des Moines Company and cancelled or otherwise disposed of as said Company shall direct. The Wabash Company will not however require nor will it as a stockholder in the Des Moines Company or lessee of its railroad insist on the Construction Company expending upon the construction and equipment of said extension more than the avails of said \$7,000 per mile of said Bonds in addition to the subsidies acquired along the line of said extension.

527 In Witness whereof the parties above named have caused their respective signatures and seals to be affixed by their Presidents and attested by their Secretaries respectively, this eighth day of Dec., 1880.

(Seal)

THE WABASH ST. LOUIS & PACIFIC  
RAILWAY CO.

By Solon Humphrey, Prest.

Attest: James F. How, Secretary.

(Seal)

THE NARROW GAUGE RAILWAY  
CONSTRUCTION COMPANY,

By F. M. Hubbell, Prest.

Attest: J. S. Runnells, Sec. N. G. R. Cons. Co.

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**Defendants' Exhibit 251.**

Wabash, St. Louis  
and  
Pacific Railway.

Peoria & Iowa Division.

W. F. Merrill,  
General Sup't.  
Peoria, Ill.

Feb. 28, 1881.

F. M. Hubbell,  
Des Moines, Ia.

Dear Sir—I have just received a letter from Col. How in which he says that Mr. Hopkins told him that he thought it was understood that he (Col. How) was to subscribe for the stock of the D. M. & St. L. road. Col. How is now waiting for official information in that respect. I will let you know just as soon as I hear from him, and also whether he wants the deeds made direct to him personally or as Trustee, from the parties in whose names you have the original deeds made.

In all cases where you pay any money for this right of way, you should make out vouchers in favor of yourself, if you furnish the money, for the amount, and let them go through the regular run, the same as for any moneys expended for any other purpose on account of the D. M. & St. L. Ry. Whenever you make out any vouchers for right of way, have the items full on the face of the face of the voucher, stating the lot and the block, in whose name the deed is taken and what proportion of the purchase price is paid, also if any of the amount stated on the voucher is paid for recorder's fees, for getting up abstracts or anything of that sort. Send them to me approved by  
529 Mr. Clarkson, and I will forward them to St. Louis, so that the money can be refunded you. This will answer your letter to Col. How, on the same subject.

If you wish other names to make deeds to besides those I gave you, you might add G. S. Grover, Joseph Dickson, or W. H. Blodgett of St. Louis, who are all connected with the legal department in St. Louis.

Yours truly,

(Signed) W. F. MERRILL, Gen. Supt.

THE DES MOINES UNION RY. CO., ET AL.

**Defendants' Exhibit 252.**

530

**Wabash, St. Louis & Pacific Railway Company.**

Office of  
Second Vice-President and Secretary,  
Room 1, Third Story, Republican Building.

St. Louis, July 18<sup>th</sup> 1881.

Mess. Polk & Hubbell  
Des Moines, Ia.

Gents.

I have yours of the 15<sup>th</sup> advising me that you can sell the north half of lot 6, block 22 at 1800.00. The price is certainly very satisfactory and it seems to me that we don't want the land, but I would like to have you talk with Mr. Kinney before we come to any conclusion in the matter.

I also have a letter from Mr. Hubbell giving me price of parts of other lots which he says he can sell. My impression is that we don't need the north half of lots between 8<sup>th</sup> and 12<sup>th</sup> streets. Will you please confer with Mess. Clarkson & Runnels and with Mr. Kinney and get their views in the matter and let me know if they agree with me. We can then if we so decide take steps to sell at price you name, which seems to me satisfactory. My only hesitation about deciding the matter now is that I remember that certain property down in that locality will be needed for shoproom for narrow gauge road and probably for an interchange yard between the two roads and don't wish to sell anything that may be required for this purpose.

Yours truly

(Signed) JAMES F. HOW, 2d V. President.

531

**Defendants' Exhibit 253.**

**Wabash, St. Louis & Pacific Railway Company.**

Office of  
Second Vice-President and Secretary  
Room 1, Third Story, Republican Building.

St. Louis, May 26<sup>th</sup> 1882.

F. M. Hubbell Esq.  
Des Moines

Dear Sir,

As you are aware we have charged to the Des Moines & Northwestern road a quantity of rails which property should

be charged to the Des M. & Northern, there may be other charges which have been made to Des M No West'n a portion of which should be billed against D M & Northern, likewise there may be, (I do not know that there is,) some counter-charges to be made against the D M No West'n. We are anxious to find out just how the account stands between the two companies & therefore I have requested Mr Trumbull our ass't auditor to go to Des Moines and go over with you these accounts with a view (to) such an adjustment. The amount the D M & N W will owe for the half interest in the track between Des Moines & Clive and for the whole of the track between Clive and Waukee, and for which the D M N W road should have credit, I have requested Mr. Trumbull to show separately. While he is there I have asked him also to see whether everything which should be charged against J. F. How, Trustee in the city of Des Moines has been so charged & whether the other properties have had credit for any such charges.

532 Mr Trumbull will leave here on Sunday evening & I hope you will arrange to be in Des Moines on his arrival and also have Mr. Kinney there, and have these accounts all finally adjusted.

Yours truly

(Signed) JAMES F HOW  
3d V Prest

533

**Defendants' Exhibit 254.**

June 11 1882

195 Broadway, New York.  
June 3rd 1882.

F. M. Hubbell, Esq., President.  
Des Moines, Iowa.

Dear Sir:

I have your letters of May 31st and April 5th. I notice in your statements of April 5th that the cost of the work done by me was \$131,995.50, while the cost as made up to May 31st was \$126,824.11. I send you herewith copy of the Wabash statement in which you will notice they give us a credit for expenditure of only \$103,436.48. I do not exactly understand these figures. Can you reconcile them, or tell me where the discrepancy occurs? I notice the Wabash people cut down by one half the cost of the construction from the corporation line to Cleve, and from Cleve to Waukee they cut down the cost \$6000, while they increase the cost on account of the State limits \$2000.

There is nothing added for superintendence or interest. I suppose you will expect us to add them here. Are you sure you have carried into this account every thing that should be there? These statements run up the cost of the road some \$30,000 or \$40,000 above what has been heretofore reported to me.

Very truly yours,

(Signed) G M DODGE.

P. S. Please explain to me fully the item of expenditure by Wabash, Des Moines to Clive, \$15,174.06.

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**Defendants' Exhibit 255.**

534

Jas. F. How,  
3rd Vice President,  
St. Louis, Missouri.

Dear Sir:

In accordance with your instructions the Asst. Auditor visited Des Moines on the 29th inst. and the following is respectfully submitted as result of a careful examination of vouchers and accounts made by him, in connection with Mr. F. M. Hubbell, President Narrow Gauge Construction Company, and Mr. E. C. Kinney, Chief engineer in charge of Construction.

Statements in detail of expenditures made by General G. M. Dodge were prepared and certified, and will be submitted for your further information as soon as copies can be prepared in this office:

**Expenditures by W. St. L. & P. Ry. Co.**

on road from City limits of Des Moines to Cleve, including property in Cleve.

Iron Rails, 5.54 miles at 55 tons per mile, 304.7 tons, costing in St. Louis \$49.80 per ton.....	\$15,174.96
---------------------------------------------------------------------------------------------------	-------------

On road from Cleve to Boone,

Iron Rails, 37.53 miles, 55 tons per mile, 2064.15 tons at \$49.80 per ton...	\$102,794.67
Freight St. L. to Ottumwa on 19 cars ties	161.28
	<hr/>
	\$102,955.95

## Expenditures by G. M. Dodge.

On account of property in City limits of Des Moines .....	\$36,391.29
On account of road from City limits (of) Des Moines to Cleve.....	46,775.25
On account of road from Cleve to Waukee .....	43,657.47

Under my interpretation of the terms of proposed settlement, I find that General Dodge will owe this Company \$106.50, as fully set forth in account herewith enclosed.

Yours truly,

(Sgd.) D. B. HOWARD,  
Auditor.

535 General G. M. Dodge in acct. with the Wabash & Louis & Pacific Railway Company.

## Debits.

Expenditures by W. St. L. & P. Ry. Co. on road, Des Moines to Cleve, \$15,174.06, One half payable by General Dodge, . \$ 7,587.03 Expenditures on road Cleve to Boone, 102,955.95	
	\$110,542.98

## Credits.

Expenditures by Genl. Dodge on acct. of property in City limits of Des Moines .....	\$ 36,391.29
Expenditures on road Des Moines to Cleve, \$46,775.25, one half payable by W. St. L. & P. Ry. Co. ....	23,387.62
Expenditures on road, Cleve to Wau- kee, .....	43,657.47
	\$103,436.48
Balance due W. St. L. & P. Ry. Co. . .	\$ 7,106.50
May 31st 1882.	

## Defendants' Exhibit 256.

June 10, 1882.

G. M. Dodge,  
195 Broadway,  
New York.

June 3d. The difference in the figures showing expenditures in the city limits and from city to Cleve occurs namely as follows:

An item of \$1800 paid by you for real estate in Des Moines was reported as belonging to the account of city limits to Clive. This error was discovered when Mr. Trumble was here and which increases amount expended in city and reduces amount expended between city and Clive.

As to the deductions in cost of road from Clive to Waukee it came as follows:

It was found that although I had paid for splices, spikes, bolts, and ties for the road to Waukee and had taken credit for them, yet when we came to finish the road to Boone we were compelled to borrow from the Wabash supplies quite a large amount of all of these, the value of which was ascertained to be \$6,199.71, which was deducted from amount expended by you from Clive to Waukee, namely, \$49,857.18. Less supplies \$6,199.71. Total Clive to Waukee \$43,657.47. City limits to Clive \$46,775.25. Inside of city limits \$36,391.39. These are footed, \$126,824.11. As you own one half 337 of the road from city to Clive it is proper for you to collect from Wabash only one half of the item of \$46,775.25.

For the same reason as the Wabash furnished all the iron from city limits to Clive it is proper for you to pay for one half of it, namely, one half of \$15,174.06. We added nothing for superintendence or interest, leaving that for you to settle with the Wabash. We think the account is correctly stated.

Yours truly,

F. M. HUBBELL, President.

528

### **Defendants' Exhibit 257.**

James F. How,

Sec'y W. St. L. & P. R'y Co.

Ass't Sec'y The Mo. Pac. R'y Co.

The Missouri Pacific Railway Co.

The Wabash, St. Louis and Pacific Railway Co.

The Missouri Pacific Railway,

Central Branch U. P. R. R.

Missouri, Kansas & Texas Railway,

St. Louis, Iron Mountain & S'n R'y. Secretary's Office.

Texas & Pacific Railway,

International & Great N. R. R.

Wabash, St. L. & Pac. R'y Co.

St. Louis, May 29<sup>th</sup> 1893.

J. S. Polk Esq

Des Moines

Dear Sir,

Enclosed please find correspondence between Col. Blodgett and myself from which you will notice that he interprets the

contract with the Des Moines & St. L. R. R. in the same manner as I do, that is, I am entitled to \$2,000,000 of the stock minus 4 shares. Will you therefore please see that a certificate is issued to me, for remainder of the stock due.

I enclose herewith certificate No. 10 for 6206 shares of D. M. & St. L. Ry. Co. stock issued to me as Agent, which I have endorsed to the W. St. L. & P. Ry. Please send me a new certificate for same amount in the name of that Co.

I enclose herewith a copy of the contract between yourself & the others and the W. St. L. & P. Ry. also a copy of the contract between the D. M. & St. L. R. R. Co. & myself both of which you left with Col. Blodgett. I enclose a paper drawn up by Col. Blodgett to be executed by the D. M. & St. L. & myself which acknowledges the performance of the contract of Feb'y 18<sup>th</sup> 1881. Will you please sign both of the latter papers and return them to me with the certificate of stock in lieu of the one I send you and certificate of stock to the additional amount to which I am entitled; on receipt of this certificate and agreements, I will sign one of the agreements and return to you.

Yours truly,

(Signed) JAMES F. HOW,  
Sec'y.

540

### **Defendants' Exhibit 258.**

James F. How,

Sec'y W. St. L. & P. Ry Co.

Asst Sec'y The Mo. Pac. Ry Co.

The Missouri Pacific Railway Co.

The Wabash, St. Louis and Pacific Railway Co.

The Missouri Pacific Railway,

Central Branch U. P. R. R.

Missouri, Kansas & Texas Railway.

St. Louis, Iron Mountain & S'n Ry. Secretary's Office.

Texas & Pacific Railway,

International & Great N. R. R.

Wabash, St. L. & Pac. Ry Co.

St. Louis, Sept. 28<sup>th</sup> 1883.

Mess Polk & Hubbell,

Des Moines

Gents,

Have you made any collections on account of taxes voted in aid of D. M. N. W. R. R. since your last remittance, if so

please give me a statement of what is collected and send check for same. I would like to know at the same time just what is remaining unpaid on account of taxes voted for us and when we can expect the payment.

I have never received from you a statement of the rents collected on property belonging to J. F. How Trustee or the road, in Des Moines, there must be a number of houses on the property which we bought which are rented and there should be considerable due us from that source. Please give me a detailed statement of the amount collected showing from what time & to what time payment covers.

Yours truly,

(Signed) JAMES F. HOW, Secy.

541

**Defendants' Exhibit 259.**

James F. How,

Sec'y W. St. L. & P. Ry Co.

Asst Sec'y The Mo. Pac. Ry Co.

The Missouri Pacific Railway Co.

The Wabash, St. Louis and Pacific Railway Co.

The Missouri Pacific Railway.

Central Branch U. P. R. R.

Missouri, Kansas & Texas Railway.

St. Louis, Iron Mountain & S'n Ry. Secretary's Office.

Texas & Pacific Railway.

International & Great N. R. R.

Wabash, St. L. & Pac. Ry Co.

St. Louis, Sept. 27<sup>th</sup> 1883.

How Polk & Hubbell,

Des Moines

Gents,

Yours of Sept. 24<sup>th</sup> enclosing draft for \$279.23 and voucher for \$2.64 making \$2281.97 collected on account of taxes voted in aid D. M. N. W. road is received. Please let me hear as soon as you have the information how much is still due on account of taxes voted in aid of that road, also let me have statement concerning rents, about which I wrote you, at an early a date as possible.

Yours truly,

(Signed) JAMES F. HOW,  
Sec'y.

**Defendants' Exhibit 260.****Wabash, St. Louis & Pacific Railway Company.**

Solon Humphreys and Thomas E. Tutt,  
Receivers.

James F. How,  
General Agent for the Receivers.

St. Louis, Mo., Aug. 4th, 1884.

Messrs Polk & Hubbell.

Gentlemen:

Some two years ago when our Auditor called on you to adjust the account between the Des Moines & Northwestern Ry. Co., Genl. Dodge, and the Wabash; in the settlement ~~the former~~ (Genl D—) was credited with cost of the land he had purchased in Des Moines, with the understanding that it was to be deeded to J. F. How, Trustee, in which name stood most of the other property belonging to the R. R. and I understood that Mr. Hubbell prepared deeds and sent them to Genl Dodge for his signature but for some reason they were not then executed. It is important now to have these deeds executed, and I yesterday telegraphed, asking you where they were; and just have your telegram, that you know nothing of them which is a surprise to me, as the information I had, that they were prepared, came from one of your firm. As you are thoroughly acquainted with the matter, will you prepare such deeds from Genl Dodge to J. F. How, Trustee, and send them to ~~New York~~ (me) to be executed.

Yours truly

(Signed) JAMES F. HOW,  
Genl. Agt.

**Defendants' Exhibit 261****Wabash, St. Louis & Pacific Railway Company.**

Solon Humphreys and Thomas E. Tutt,  
Receivers.

James F. How,  
General Agent for the Receivers.

St. Louis, Aug. 8th, 1884.

Messrs. Polk & Hubbell.

Gentlemen. Yours of Aug. 7th received. It is necessary to have a deed of the property, spoken of in your letter, as belonging to the St. L. D. M. & N. Ry, as well as that which

was in the name of Gen. Dodge. Please send me a deed for the same to James F. How trustee and if the Officers of the Company live in Des Moines have them execute it. And if it has to be executed by Gen Dodge prepare it and send it to me and I will forward it to him to be executed. I have telegraphed you today to this effect. This property was as you know to be left separate from the Roads in one name with the idea of having a terminal company in which all roads should have a proportionate interest and in making up the account against the Boone R. R. they received credit for the value of this property.

Yours Truly,

(Signed) JAMES F. HOW,  
Genl. Agt.

544

**Defendants' Exhibit 262.**

195 Broadway,

New York. Sept. 9, 1884.

Messrs. Polk and Hubbell,  
Des Moines, Ia.

Gentlemen:

I am endeavoring to make a settlement of the open account between the St. Louis Des Moines & Northern R'y Co. and the Wabash Co. and also settle the ownership and title of our terminals in Des Moines.

If any of the Wabash People write you about our contracts, the cost of work, land owned in Des Moines and cost of same, please make them no definite answer but refer them to me, and very much oblige,

Yours truly

G. M. DODGE,  
G.

545

**Defendants' Exhibit 263.**

New York, October 9, 1886.

To the Purchasing Committee  
of the Wabash, St. Louis & Pacific Ry Co.

Gentlemen:

We make the following proposition in regard to the Des Moines Northwestern Railway. The mortgage to be foreclosed to cover all advances made by the Wabash Company to the

D. M., N. W. Ry. Co. A good and perfect title free from all liens and incumbrances including all claims the Receivers may have against it to be made to Polk & Hubbell for said railway and all its property, rights, franchises, all its interest in the equipment and a one fourth interest in the terminal property at Des Moines and 5037 shares of stock in the D. M., N. W. Ry. Co.

Upon the delivery of the property above named in the condition as to title as above specified Polk & Hubbell are to pay the Committee a \$450,000 first mortgage 5% bond. The issue to be only \$450,000, and to be secured by a first mortgage on the property conveyed, to-wit, on that part of said railway lying between Farnham Street in Des Moines and the Town of Fonda and equipment. To run two years from the time the title is delivered to Polk & Hubbell, and to be redeemable at their option at any time before maturity upon payment of principal and accrued interest, and if paid within one year from the time the title is delivered to Polk & Hubbell, then

546 \$450,000 cash, shall discharge said mortgage and debt.

Polk & Hubbell to have all the stock of the new Company. As soon as the contract is completed Polk & Hubbell are to make arrangements to standard gauge the road. If accepted, the details and plan of carrying out the above is to be agreed upon and embodied in a contract to be signed by the necessary parties.

(Signed) POLK & HUBBELL

New York, October 9, 1886.

The foregoing proposition is satisfactory to us and we agree as a Committee acting under the contract of July 15th, 1885, between ourselves and certain bondholders to take all measures in our power to have the same fully performed.

(Signed) O. D. ASHLEY,

" THOS. H. HUBBARD.

" EDGAR T. WELLES.

Received of Messrs. Polk & Hubbell the mortgage bonds specified in the foregoing contract, to-wit:

\$450,000 new first mortgage bonds of the Des Moines & Northwestern Railway Co.

New York City ) O. D. ASHLEY Secy Purchasing  
May 28/88 ) Committee

Resolved, That the conditional agreement which the Purchasing Committee have heretofore entered into with

Messrs. Polk & Hubbell for the re-sale of the Des Moines North-western Railway be, and the same is, hereby approved and confirmed; and the said Purchasing Committee is hereby directed to consummate the same;—it being understood that no part of the car trust equipment is included in said agreement.

### Defendants' Exhibit 265.

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This Memorandum of Agreement made and entered into this 10th day of September, A. D. 1887, by and between Messrs. Polk & Hubbell, parties of the first part, and James F. Joy, Ossian D. Ashley, Thomas H. Hubbard and Edgar T. Welles, as a Purchasing Committee under contract of July 15th, 1885, parties of the second part, Witnesseth:

That Whereas, under date of October 9th, 1886, the parties to this agreement entered into a certain conditional contract for the foreclosure and sale of the Des Moines Northwestern Railway, as shown by copy of proposition of the first party hereto and acceptance of the second party hereto, attached to this agreement and made part hereof.

And Whereas, in pursuance of said contract said foreclosure and sale is to take place as provided in said agreement and said parties of the first part expect and intend to become purchasers at said sale.

Now, Therefore, it is further agreed between the parties above named as follows:

1st. For the purpose of enabling Messrs. Polk & Hubbell to bid in the Des Moines Northwestern Railway at the foreclosure sale above referred to the Committee will furnish to said Polk & Hubbell the general mortgage bonds required to make payment of said bid, so far as the same may be required and can be used in that way; the cash payment required by  
549 the decree shall be advanced by Messrs. Polk & Hubbell and credited upon the purchase price of the property above mentioned.

2nd. A decree of foreclosure and sale shall be entered as soon as possible after the first day of the next term of the Circuit Court of the United States for the Southern District, Central Division of Iowa. Messrs. Polk & Hubbell will see that the amount of the cash payment is made as small as possible, and to that end will negotiate for a reduction of the Master's fees and other costs, as far as the same can be obtained. The day of sale shall, moreover, be made as soon as possible.

3rd. The requirement of the agreement hereto annexed, for the delivery to the Committee by Messrs. Polk & Hubbell of a

bond for \$450,000, shall be satisfied by the delivery of such bond secured by first mortgage as provided in proposition of October 9th, 1886, executed by a new corporation organized for that purpose, and holding the property disposed of at such sale.

4th. As soon as practicable after the signing of this stipulation the Des Moines Northwestern Railway shall be turned over to Messrs. Polk & Hubbell and thenceforth regarded as having been transferred under the contract hereto annexed.

5th. Simultaneously with the execution and delivery of said bond the Committee will convey to Messrs. Polk & Hubbell, or their assignees, the one-fourth interest in the terminal property at Des Moines, and will transfer also 5037 shares of stock of the Des Moines Northwestern Railway Company, and also all the interest of the parties of the second part in the equipment of said Des Moines Northwestern Railway. It is hereby understood that the rolling stock of the New York & Pacific Car Trust Association is not included in this agreement.

Simultaneously with the conveyance above mentioned of one-fourth interest in the terminal property at Des Moines, the same shall be mortgaged back to the Purchasing Committee for the further security of the said \$450,000. In case, however, the terminal property at Des Moines shall be merged in a terminal company either before or after the transfer of one-fourth interest as above, the bonds and stock received from the Terminal Company in exchange for said one-fourth interest shall be transferred in lieu of the property to Messrs. Polk & Hubbell, or their assignees, or transferred by them to the Committee, to be held by the Committee as a further security for the payment of the \$450,000 above mentioned.

6th. The transfer of the bonds mentioned in paragraph one of this agreement, to Messrs. Polk & Hubbell, and the execution and delivery of the bond and mortgage mentioned in paragraph three, shall be consummated if possible on the same date as the delivery of the Master's deed to Messrs. Polk & Hubbell, or their assignees; said mortgage being recognized as a purchase money mortgage.

(Signed) POLK & HUBBELL,  
JAMES F. JOY,  
O. D. ASHLEY,  
THOS. H. HUBBARD,  
EDGAR T. WELLES,  
Purchasing Committee.

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**Defendants' Exhibit 266.**

**The Wabash Western Railway Company.**

James F. How,  
Secretary & Treasurer.

St. Louis, Mo.,

Des Moines, Ia. Sept. 17th, 1887.

Temporary arrangement suggested by Mr. Ashley subject to the approval of the Purchasing Committee.

1. The Purchasing Committee to turn over the possession of the Des Moines N. W. Ry. to Mess Polk & Hubbell, or to the new corporation to be formed, Oct. 1st, 1887.

2. All accounts prior to October 1st 1887 to be settled by the Wabash Western for the Purchasing Committee and all earnings prior to that date to be collected by said W. W. Co.

3. The new Company or Mess Polk & Hubbell to assume all necessary repairs of the Des Moines N. W. road, commencing the same as soon as the condition of the road requires such improvement and repair.

4. This arrangement to continue until the contemplated decree and sale have been completed and the property has been legally acquired according to the agreement.

5. In case of any obstruction or delay in carrying out the plan as detailed in the agreement to such an extent as to render it doubtful of completion within a reasonable time, it shall be in the power of either the Purchasing Committee or Mess Polk & Hubbell to restore the status of the property by surrender and delivery to the Purchasing Committee

upon thirty days notice but in case of such restoration Mess Polk & Hubbell or the new Company, shall be entitled to any expenditure they may have made in repairing or operating the road, over and above the amount of its net receipts, and in case they have received net earnings in excess of such expenditures, then the balance constituting such excess shall be paid over to the Purchasing Committee.

St. Louis, Mo. Oct. 1st 1887.

We accept from Oct. 1st 1887. possession of the Des Moines North-Western Railway on the terms stated in above memorandum of agreement, suggested by Mr. Ashley.

(Signed) POLK & HUBBELL.

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**Defendants' Exhibit 267.**

Whereas, The Central Trust Company of New York has received from the Wabash, St. Louis & Pacific Railway Com-

pany forty five (45) first mortgage bonds of the Des Moines Northwestern Railway Company, each of said bonds being for the principal sum of ten thousand (\$10,000) Dollars, and being the whole of the issue thus described; and

Whereas, the said bonds have been received by the Purchasing Committee of bondholders of the Wabash, St. Louis and Pacific Railway Company under an agreement with Messrs. Polk & Hubbell, dated October 19th, 1886, in which agreement it is stipulated that the said Purchasing Committee will cause the said Des Moines Northwestern Railway to be conveyed to Messrs. Polk & Hubbell free and clear of all liens and encumbrances of every kind whatever; and

Whereas there is pending in the Supreme Court of the United States a certain suit, No. 849 on the Docket of the said Supreme Court and known as the appeal of the Des Moines and Fort Dodge Railroad Company against the Wabash, St. Louis and Pacific Railway Company and others;

Now Therefore the said Central Trust Company of New York, with the assent of the said Purchasing Committee, hereby covenants with the said Polk & Hubbell that it will hold five (5) of said bonds as security for the performance of the contract above mentioned so far as the lien of any judgment recovered in said action is concerned.

It is further stipulated on the part of the Central Trust Company of New York, with the assent of the Purchasing Committee aforesaid, that a certain judgment which on the 7th day of December, A. D. 1885, was by the Circuit Court of Iowa in and for Des Moines county rendered against the Wabash, St. Louis & Pacific Railway Company and in favor of R. R. Westfall for Eight thousand (\$8,000) Dollars, be received in payment of principal or interest in the said forty-five bonds or any of them when the said interest or principal respectively mature.

(Signed) CENTRAL TRUST COMPANY OF  
NEW YORK,

by E. F. Hyde,  
2d Vice President.

The "Purchasing Committee" mentioned in the foregoing Agreement assent thereto and request the Central Trust Company to sign the same.

Dated, New York, May 29th, 1888.

(Signed) JAMES F. JOY,  
EDGAR T. WELLES,  
THOS. H. HUBBARD,  
O. D. ASHLEY.

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**Defendants' Exhibit 268.**

Received May 29th 1888 of James F. Joy, O. D. Ashley, Thomas H. Hubbard and Edgar T. Welles, Purchasing Committee, \$112,000 of Des Moines Union Depot Company First Mortgage Bonds, to be held by me in trust, subject to the provisions of agreements between said Purchasing Committee and Messrs. Polk and Hubbell, dated October 19, 1886 and September 10, 1887; and also an agreement of extension by the said Purchasing Committee to the Des Moines and Northwestern Railway Company, dated May 15, 1889.

(Signed) WAGER SWAYNE.

Dated, New York City, N. Y. May 29 1889.

Witnesses

Wm. J. Harding

Thomas E. Fell.

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**Defendants' Exhibit 269.**

Chicago, Illinois,  
May 15, 1889.

Referring to a conditional contract under date of October 9, 1886, as shown by a proposition of Messrs. Polk and Hubbell and its acceptance of the same date and to a memorandum of agreement made September 10, 1887, in pursuance of said contract by Messrs. Polk and Hubbell of the first part and James F. Joy, Ossian D. Ashley, Thomas H. Hubbard and Edgar T. Welles as a purchasing committee, of the second party and to an agreement of the Central Trust Company of New York assented to by said purchasing committee March 29, 1888, the undersigned hereby agree as follows, to-wit:

First. The time for the payment of the sum of four hundred and fifty thousand dollars and the bonds evidencing the same, mentioned in said agreements is hereby extended five years from May 20, 1890, provided interest accruing thereon shall be paid as hereinafter agreed.

Second. Interest thereon shall be paid half yearly to-wit: May 20 and November 20 in each year until the principal shall be fully paid.

Third. If default shall be made in payment of any interest herein agreed to be paid then the extension hereinbefore agreed to shall immediately end and if such default shall continue two months the aforesaid bonds and the principal sum evidenced thereby shall then become due and payable

558 and payment thereof may forthwith be enforced by suit on said bonds, foreclosure of the mortgage securing the

same, entry on the mortgaged premises or by any lawful proceeding the holders of said bonds may elect to take.

JAMES F. JOY  
O. D. ASHLEY  
THOS. H. HUBBARD  
EDGAR T. WELLES

Purchasing Com.

DES MOINES & NORTH WESTERN  
RAILWAY COMPANY

By F. M. Hubbell,  
Pres.

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### Defendants' Exhibit 270.

Chicago, February 11, 1890.

F. M. Hubbell, Esq.,  
Des Moines, Ia.

Dear Sir:—

In behalf of the Purchasing Committee of the Bondholders of the Wabash, St. Louis & Pacific Ry. Co., I am authorized to accept a proposition from you to buy the \$450,000.00 Des Moines & Northwestern Ry. Co. Bonds, issued May 20, 1888, upon the following terms and conditions:

First: The amount to be paid by you for said bonds shall be \$400,000.00 payable on or before March 1, 1890, as follows: You to deliver to said Purchasing Committee on or before said date \$115,000.00 in the bonds of the Des Moines Union Ry. Co., which shall be part of the \$400,000.00 aforesaid. It is understood that \$112,000.00 of the said \$115,000.00 Des Moines Union Ry. Co. bonds are now held in trust for the Purchasing Committee by General Wager Swayne; said bonds carrying coupons due May 1, 1890. The balance of said \$400,000.00, namely, \$285,000.00 to be paid for in ten monthly installments as follows:

April 1, 1890, \$28,500.00; May 1, 1890, \$28,500.00; June 1, 1890, \$28,500.00; July 1, 1890, \$28,500.00; August 1, 1890, \$28,500.00; Sept. 1, 1890, \$28,500.00; October 1, 1890, \$28,500.00; November 1, 1890, \$28,500.00; December 1, 1890, \$28,500.00; and January 1, 1891, \$28,500.00; each installment bearing interest at the rate of six per cent from March 1, 1890.

560 I am also willing to agree as one of the Purchasing Committee that upon the payment of each installment, as aforesaid, to deliver to you \$45,000.00 in bonds of the Des

Moines & Northwestern Ry. Co., but as I have not consulted my associates of the Committee upon this point, this clause must be subject to the ratification of the whole Committee which I will try to secure.

Second: It is understood that the sale, terms and conditions, as before stated, are to be subject to the approval and ratification of the Board of Directors of the Wabash Railroad Company, but I will agree to recommend to the Board all, or so much of the foregoing as may be ratified by the Purchasing Committee.

Third: It is also understood that in case you accept the foregoing proposition you shall procure such action on the part of the Des Moines & Northwestern Ry. Co. as will release the Purchasing Committee and the Wabash Railroad Company from liability on account of the contract heretofore made between them and the Des Moines & Northwestern Ry. Co. for the sale of said property last aforesaid.

Fourth: It is understood that you will accept the undertaking of the Wabash Railroad Company to indemnify you as purchaser against any claims or liens which may exist upon any of the property sold by the Purchasing Committee to Polk & Hubbell, or the Des Moines & Northwestern Ry. Co.

Fifth: You are to accept or decline this proposition on or before March 1, 1890.

Yours truly,

(Signed) O. D. ASHLEY, Secy.  
Purchasing Committee.

### **Defendants' Exhibit 271.**

Referring to a conditional contract dated October 9th, 1886, between Messrs. Polk and Hubbell, of the one part, and the Wabash Purchasing Committee, so called, of the other part, and to an agreement dated September 10th, 1887, made between the same parties, and to an agreement dated May 20th, 1888, signed by the Central Trust Company of New York, and assented to by said Purchasing Committee, and to an agreement dated May 15th, 1889, between said Purchasing Committee and the Des Moines & Northwestern Railway Company, the parties interested in said agreements do hereby covenant, undertake and agree as follows:

First: F. M. Hubbell, of Des Moines, Iowa, agrees to buy and does hereby buy from the said Purchasing Committee forty-five first mortgage bonds of the Des Moines & Northwestern Railway Company, each for the principal amount of

\$10,000, being the same bonds now held by said Central Trust Company, and mentioned in said agreement of May 29th, 1890.

Second: The said F. M. Hubbell agrees to pay for said bonds as follows, to-wit: He will pay and deliver to the said Purchasing Committee when this agreement is signed bonds of the Des Moines Union Railway Company of the par value of \$115,000. Of said last mentioned bonds, \$112,000 par value are held in trust by Wager Swayne, and the said Hubbell agrees to have said trust discharged so that said bonds may be delivered unconditionally to the said Purchasing Committee; to whom also the said Hubbell will deliver other bonds of the same issue of \$3,000, par value.

The said Hubbell will also pay to said Purchasing Committee \$285,000, in ten monthly instalments as follows, to-wit: April 1, 1890, \$28,500; May 1st, 1890, \$28,500; June 1st, 1890, \$28,500; September 1st 1890, \$28,500; October 1st, 1890, \$28,500; November 1st, 1890, \$28,500; December 1st, 1890, \$28,500; January 1st, 1891, \$28,500; February 1st, 1891, \$28,500; March 1st, 1891, \$28,500. As evidence of his indebtedness for said payment said Hubbell will make and deliver to said Purchasing Committee his ten promissory notes for the several amounts and falling due on the several dates hereinbefore mentioned, and each of said notes shall bear interest at the rate of six per cent per annum from March 1st, 1890, until paid. It is understood and agreed that said Hubbell may, at his pleasure, anticipate payment of any of the amounts above mentioned and thereby stop interest thereon.

Third: The said Purchasing Committee agrees to sell to said F. M. Hubbell the said forty-five First Mortgage Bonds of the Des Moines & Northwestern Railway Company each for the principal amount of \$10,000, as aforesaid, and to assign and transfer, as said Committee hereby does, to said F. M. Hubbell all the rights of said Committee with respect to said forty-five bonds in consideration of the payments to be made by said Hubbell as hereinbefore specified and to deliver to said Hubbell \$45,000, par value of said Des Moines & Northwestern Railway Company bonds (being one-tenth of the total amount thereof) upon the payment by said Hubbell of each one of the notes above mentioned with interest as aforesaid.

Fourth: Polk and Hubbell and the Des Moines & Northwestern Railway Company assent to this agreement and release the said Purchasing Committee and its individual members from all liability in respect to all or any of the agreements mentioned in the preamble to this contract, so far as such liability might otherwise be charged upon the estate of said committee not heretofore conveyed and so far as the

members of said committee might otherwise be individually liable. It is, however, expressly understood and agreed by both the parties hereto that nothing herein contained is meant or shall be construed to release or waive any agreement or liability made or assumed by said committee and which by the terms of any decree of court or conveyance by said committee has been charged upon any property whatever which said committee has heretofore purchased or conveyed. And the said F. M. Hubbell joins in said release, in consideration that the Wabash Railroad Company agrees to perform said contracts so far as they are not superseded hereby and so far as said Purchasing Committee would otherwise be bound to perform the same and to protect and hold harmless the parties to said agreements to the same extent that the said Purchasing Committee would be bound to protect them and hold them harmless if this release had not been made.

265 Fifth: In consideration of the premises and in consideration also of its interest in the bonds of the Des Moines & Northwestern Railway Company and of its obligation to protect the said Purchasing Committee in respect to the several contracts and agreements herein mentioned, which it hereby recognizes and acknowledges, the Wabash Railroad Company by authority of its Board of Directors undertakes and agrees to perform the several agreements and the conditional contract mentioned in the preamble to this contract so far as the same are not superseded by this contract and so far as the said Purchasing Committee would be bound to perform the same if not released by the last preceding article hereof; and agree to protect and hold harmless Polk and Hubbell, F. M. Hubbell and the Des Moines & Northwestern Railway Company against any claims or liens which may exist upon any of the property sold by said Purchasing Committee to Polk and Hubbell or to the Des Moines & Northwestern Railway Company according to the true meaning and intent of the agreements mentioned in the preamble to this contract, and especially to protect them against the claim of the Des Moines & Fort Dodge Railroad Company now pending in the supreme court of the United States as cause numbered 256 on the calendar of said Court and against all claims that may arise from any of the matters mentioned or referred to in said cause numbered 256 aforesaid.

266 Sixth: The Central Trust Company of New York hereby assents to this contract in consideration that the Purchasing Committee delivers to it the \$115,000. bonds of the Des Moines Union Railway Company and the ten notes of F. M. Hubbell hereinbefore mentioned to be held by the

Central Trust Company as collateral security for the indebtedness of it of said Purchasing Committee.

In Witness Whereof, the several individuals, parties to this contract, have hereunto set their names and affixed their seals, and the several corporations, parties hereto, have caused these presents to be signed by one of their officers and their seals to be affixed and attested by their respective securities this first day of March, 1890.

JAMES F. JOY,	:	
O. D. ASHLEY,	:	Purchasing
THOS. H. HUBBARD,	:	Committee
EDGAR T. WELLES	:	

Polk & Hubbell

F. M. Hubbell,

Des Moines & Northwestern Railway Co.

By F. M. Hubbell, Presd.

(Seal)

THE WABASH RAILROAD CO.

Attest:

By O. D. Ashley,

J. C. Otteson,

President.

Secretary.

Attest: A. H. Sharp

CENTRAL TRUST COMPANY

Secy. & Treas.

OF N. Y.

By N. P. Olcott, Pr.

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### Defendants' Exhibit 272.

New York, March 7th, 1890.

Pursuant to the foregoing agreement The Wabash Purchasing Committee has this day deposited with us three 1st M. Bonds of the Des Moines Union Railway Co. Nos. 3, 4 and 126, \$1000. each and an order upon Genl. Wager Swayne for the delivery to this company of \$112,000. of 1st M. Bonds of the Des Moines Union Railway Co. and ten notes of F. M. Hubbell for \$28,500. each to the order of O. D. Ashley Secy. of the Purchasing Committee of the W. St. L. & P. Ry. and endorsed by said Ashley to the Central Trust Co. of N. Y.

CENTRAL TRUST CO. OF NEW YORK.

By G. R. Munn, President.

**Defendants' Exhibit 273.**

**The Wabash Western Railway Company.**

James F. How,  
Secretary & Treasurer.

St. Louis, Mo., Nov. 19th, 1887.

Messrs. Polk & Hubbell,  
Des Moines, Ia.

Dear Sir:—

Referring to the copy of the resolutions adopted at the meeting of the Directors of the Des Moines Union Ry. Co., which you sent me, I notice one error, where the resolution says that one-half of the stock should be transferred to me, it should read three-fourths; of this three-fourths, one-fourth I suppose will eventually go to you when you carry out your arrangement with the Purchasing Committee but the three-fourths should be turned over to me and the resolution was so passed. Please make the correction on the books and notify me that you have done so.

Yours truly,

(Signed) JAMES F. HOW,  
Vice President.

**Defendants' Exhibit 274.**

Nov. 28, 1887.

Jas. F. How,  
St. Louis, Missouri.

Dear Sir,—

Yours of the 19th instant in regard to copy of resolution of the Des Moines Union Ry. Co. is received.

The original resolution, which was introduced by you, and passed by the company authorizing the issuance of three-fourths of the capital stock of the Des Moines Union Ry. Co. to you for the Purchasing Committee, and one-fourth to the St. Louis Des Moines & Northern Ry. Co. In entering the same up the words "one-half" was inserted by mistake, instead of "three-fourths". The record has now been corrected, so as to correspond with the original resolution. We are not advised as to what right the Purchasing Committee have to the stock. We suppose however they acquired it by purchasing the stock of the Des Moines & St. Louis R. R. Co.

It seems to us that the entire stock of the company \$2,000,000 should not be issued at present but that three-fourths of

the stock actually issued should be delivered to you and one-fourth to General Dodge. We would like your views in regard to this matter.

Yours truly,

(Signed) POLK & HUBBELL.

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**Defendants' Exhibit 275.**

Washington Building,  
No. 1 Broadway, New York.

Mess. Polk & Hubbell,  
Des Moines.

Dec. 5, 1887.

Gentlemen;

Mr. Ashley was in here to-day with a statement in figures of the expenditures upon the terminals. He seemed to think that in some way or other I ought to pay the balance of the quarter, or that it would be hardly fair for me to receive  $\frac{1}{4}$  of the stock; but I explained to him the facts of my settlement with the Wabash, which you probably remember. They agreed to take bonds for their expenditure, and I agreed to pay interest upon my  $\frac{1}{4}$  of the expenditure which I have done up to date, and when they receive the bonds, they of course will take their interest from the coupons. If this matter comes up between you and him please explain that to him. The original intention of the Wabash, you know, was to pay for the whole and take bonds but in the settlement I turned in what I had expended.

Mr. Ashley also wanted to issue bonds for the roundhouse expenditure and the lots owned by you, and have each Co. take its proportion, and make payments. I do not object to that, as we would have to make the payments any way, we can make them direct to the terminal company as well as to the Wabash, and take bonds for the amount we pay in. But there should be turned over on the roundhouse \$5000 insurance money. That you want to attend to.

We are drawing up the form for bringing other companies in, which he will take with him to St. Louis. It is based on the Peoria & Pekin agreement, of which you have a copy.

Yours truly,

(Signed) G. M. DODGE.

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**Defendants' Exhibit 276.****The Wabash Western Railway Company.**

James F. How,  
Secretary & Treasurer.

St. Louis, Mo. Jan'y 31st, 1888.

J. S. Polk, Esq.,  
Des Moines, Ia.

Dear Sir:—

I enclose the deeds from Gen'l Dodge to the Des Moines Union Ry. Co. which Col. Blodgett has examined and pronounces all right. In your letter transmitting these deeds, you say that they will not be recorded until the bonds are ready to be issued for them; it appears to me that before the mortgage is signed the deeds should be recorded and certainly before the bonds are issued. I think that the understanding was, that on receipt of the deeds, Gen'l Dodge and myself were to have an agreement from the Terminal Co. that each was to receive so many bonds for themselves or the parties they represent as soon as the bonds could be prepared; indeed I hold such a receipt to be turned over to the Purchasing Committee as soon as my deeds are put on record. Let me know what you decide about this matter and if it is determined to record the deeds at once, I will forward mine or will forward them as soon as you want them.

Please let me know what the law is in Iowa regarding the liability of a party giving a warranty deed? Are they liable for more than the consideration stated in the deed; this is the limit to the liability in this state and is the limit I understand under the common law but I understand that in  
573 some states this is different, hence my inquiries concerning the Iowa law.

Yours truly,

JAMES F. HOW,  
Vice-President.

574

**Defendants' Exhibit 277.**

February 1st, 1888.

James F. How, Esq.,  
St. Louis, Mo.

Dear Sir:

Your letter of the 31st ult. enclosing two deeds, one from the St. Louis, Des Moines & Northern, and the other from

G. M. Dodge to the Des Moines Union Railway Company for certain property in Des Moines is received.

We delivered to General Dodge the contract of the Des Moines Union Railway Company, to give him the bonds, and stock of the company when the same are issued, in payment for said terminals. If the deeds are satisfactory to you we will put them on record at once.

In regard to the law in Iowa relating to the liability of the party giving warranty deed would say my understanding is that the warrantor is liable only to the extent of the consideration paid him for the property with six per cent interest thereon, less any rents that may have been received from the property by him. If this inquiry is made with reference to the deed you make to the company would say inasmuch as you held the property as trustee for other parties, I should make the conveyance as such and should only make a special warranty deed.

Yours most obtly,

J. S. POLK.

575

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**Defendants' Exhibit 278.**

**The Wabash Western Railway Company.**

James F. How,  
Secretary & Treasurer.

St. Louis, Mo., Feb'y. 13th, 1888.

J. S. Polk, Esq.  
Des Moines, Ia.

Dear Sir:—

Enclosed please find a deed from the Des Moines & St. Louis Ry. Co. to the Des Moines Union Ry. Co. for the property owned by the former Co. in Des Moines. Please have same executed by Mr. Clarkson as President, and by Mr. Hubbell as Secretary and return same to me as Mr. Blodgett wishes to see that it is properly executed before it is put on record.

I understand that the Des Moines Northwestern Ry. make no deed as they have no property in Des Moines to transfer. Am I correct about this? If not, I would like to see their deed before it is recorded.

Yours truly,

(Signed) JAMES F. HOW,  
Vice President.

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576

**Defendants' Exhibit 279.****The Wabash Western Railway Company.**

Law Department.

For Convenience All  
Business Communi-  
cations Should be  
Addressed :

St. Louis, February 20<sup>th</sup> 1888.

General Solicitor  
Wabash Western R'y Co.  
St. Louis, Mo.

F. M. Hubbell, Esq.  
Des Moines, Iowa.

Dear Sir:

I send you herewith two copies of the Des Moines Union Ry. Co. mortgage, duly executed by General Dodge as President. You will notice that at the end of the mortgage (on page 20) a line is left for your signature as Secretary. It is thought best to execute it in that form, and hence we would like to have you sign there, and also attest by your signature as Secretary and attach the seal of the corporation.

You can then have the certificate of acknowledgment on page 22 filled out and signed by a Notary in the usual way.

After they are executed please send both copies back to me, one will be retained by the Trust Co. with the bonds, while the other is being recorded, after which the recorded copy will be given to the Trust Co. and the other kept by you in the files of Union Ry. Co.

Very truly yours,

(Signed) WELLS H. BLODGETT.

577

**Defendants' Exhibit 280.**February 21<sup>st</sup>, 1888.

James F. Hov, Esq.  
St. Louis, Mo.

Dear Sir:—

I herewith enclose deed from the Des Moines & St. Louis Railroad Company to the Des Moines Union Railway Company, which you forwarded to us for execution. The same has

been signed by Mr. Clarkson, and Mr. Hubbell, and properly acknowledged. Hope you will find it all satisfactory.

Yours most obtly,

(Signed) JEFFERSON S. POLK.

578

### Defendants' Exhibit 281.

Property in Des Moines, Iowa.

General G. M. Dodge, Ownership.....	51,106.36	
Interest on same at 6% per annum		
May 29th, 1884, to May 1st, 1888...	12,035.53	63,141.89
<hr/>		
Add Rental paid to the Wabash St. L.		
& P. See below.....		7,887.72
do. 1/4 of net cost of round house.		
See below .....		3,058.40
		74,088.01
<hr/>		
Wabash, St. Louis & Pacific Ry. Co.—		
Ownership .....	306,860.95	
Interest on same at 6% per annum		
May 29th, 1884, to May 1st, 1888...	72,265.73	
	379,126.68	
<hr/>		
Add		
Taxes, Paid by Receivers W. St. L.		
& P. Ry.....	4,755.04	
	383,881.72	
<hr/>		
Deduct		
Rental collected from St. Louis, Des		
Moines and Northern R. R. Co. May		
29th, 1884, to Nov. 1, 1887, 41 3/31		
months at \$191.93 per month.....	7,887.72	375,994.00
Add 1/2 of net cost of round house.		
See below .....		6,116.80
		382,110.80
<hr/>		

Cost of New Round House, etc., at Des Moines, Ia.

Total expenditures—construction of		
round house—tracks—turn table, etc.	17,133.60	
Less		
579 Insurance collected on Old Round		
House .....	5,500.00	12,233.60

## THE DES MOINES UNION RY. CO., ET AL.

Divided as follows:—

The Des Moines & North Western Ry. Co.— $\frac{1}{4}$ .....	=	3,058.40	
The St. Louis, Des Moines & Northern Ry. Co.— $\frac{1}{4}$ .....	=	3,058.40	
The Purchasing Committee of the W. St. L. & P. Railway— $\frac{1}{2}$ .....	=	6,116.80	12,233.60

**Defendants' Exhibit 282.****Des Moines Union Ry. Company.**Washington Building.  
No. 1 Broadway, New York.

New York, April 14th, 1888.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:—

I send to Polk & Hubbell by express 500 Des Moines Union Railway bonds, signed. I thought it better to sign only those we were going to use immediately, and hold the balance here to be signed as we require them. Please have them executed with a seal and get ready to distribute.

Yours truly,

G. M. DODGE,  
President.**Defendants' Exhibit 283.****The Wabash Western Railway Company.**James F. How,  
Vice President & Treasurer.

St. Louis, Mo., April 28th, 1888.

Mess. Polk & Hubbell,  
Des Moines, Ia.

Gents:—

I enclose herewith deed for one lot, which I hold as Trustee and which was not included in the former deed that I made.

In reference to the lot referred to in the letter of your Mr. J. S. Polk of April 26th, viz:—lot 7, block 4, Ft. Des Moines our record shows that this was condemned and the award of \$3,000 was paid and the title stands in the Des Moines & St. Louis Ry. Co. No deed in the name of Jas. F. How, Trustee, appears on our files in this office. I should

judge from this that no deed has been issued to me and that the deed from the Des Moines & St. Louis Ry. Co. should cover this property and if one has not been made by that Co it should be done.

Yours truly,

(Signed) JAMES F. HOW,  
Vice President.

**Defendants' Exhibit 284.**

**The Wabash Western Railway Company.**

James F. How,  
Vice President & Treasurer.

St. Louis, Mo., April 28th, 1888.

F. M. Hubbell, Esq.,  
Des Moines, Ia.

Dear Sir:—

I have a letter from General Dodge, saying that he has signed the Terminal Co. bonds and sent them to you. When you have signed those authorized by the resolution passed at the last meeting, will you please forward to me by express, the number that should be turned over to the Purchasing Committee as stated in that resolution. Also if you will send me the bond for Col. Blodgett, I will see that that is delivered to him.

Yours truly

(Signed) JAMES F. HOW,  
Vice President.

**Defendants' Exhibit 285.**

**The Wabash Western Railway Company.**

James F. How,  
Vice President & Treasurer.

St. Louis, Mo., June 1st, 1888.

F. M. Hubbell, Esq. Secretary.  
Des Moines, Ia.

Dear Sir:—

I have received from the Central Trust Co. 388 bonds of the Des Moines Union Railway Company numbered from 1 to 388, inclusive. Of said bonds, bond No. 1, has been delivered to Col. Blodgett in payment for services, please find his receipt for same enclosed. Five bonds, No. 2 to 6 have been sent to Mess. Polk & Hubbell in payment for their proportion

of the amount paid on account of the round-house at Des Moines and for two lots on which said round-house stands.

The remaining bonds, No. 7 to 388, are held by me for account of the Purchasing Committee, in payment of the money advanced by the Wabash St. Louis & Pacific Ry. Co. in payment of terminals at Des Moines.

Gen'l Dodge has retained 74 bonds, the numbers of which he will forward to you, in payment of money advanced by him for terminals at Des Moines.

All this in accordance with resolution passed by the Board of Directors of the Des Moines Union Railway Co.

The surplus due the Purchasing Committee and Gen'l Dodge should be paid as provided by said resolution.

Yours truly,

(Signed) JAMES F. HOW,  
Vice President.

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**Defendants' Exhibit 286.**

**The Wabash Western Railway Company.**

James F. How,  
Vice President & Treasurer.

St. Louis, Mo., June 1st, 1888.

Received from the Des Moines Union Railway Company, one bond of that Company numbered One, for One Thousand Dollars, in payment of my bill for services against that Company in accordance with the resolution adopted by the Board of Directors of said Company.

(Signed) WELLS H. BLODGETT.

585

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**Defendants' Exhibit 287.**

**The Wabash Western Railway Company.**

James F. How,  
Vice President & Treasurer.

St. Louis, Mo., June 28th, 1888.

F. M. Hubbell, Esq.,  
Des Moines, Ia.

Dear Sir:—

Has it been decided exactly how much stock the Des Moines Union Ry. Co. are to issue, if not I think this question should be decided as soon as possible, and the stock issued, if it has

already been decided, will you please send certificate to us for the stock to which we are entitled.

(Signed) JAMES F. HOW.

586

**Defendants' Exhibit 288.**

**The Wabash Western Railway Company.**

James F. How,

Vice President & Treasurer.

St. Louis, Mo., Sept. 17th, 1888.

Mess. Polk & Hubbell,  
Des Moines, Ia.

Gents:—

Mr. Ashley is in town and I have just had a talk with him concerning the amendments to the proposed contract for the use of the Des Moines Union Depot that you desire viz:—that the Purchasing Committee should surrender one-fourth of their stock for the benefit of the Depot Co. Mr. Ashley says that this is an arrangement which he could not agree to on behalf of the Purchasing Committee being satisfied that they would not approve of the surrender of any of their stock without a consideration. The contract as submitted last Monday, he feels is a perfectly fair one, as it requires each Co. to pay interest on the bonds only in proportion to their use of the property and he hopes that on reconsideration of the matter you will see the justness of this provision, or if you prefer, that question can be left to arbitration, you to select one arbitrator, we the other, they to select the other if they cannot agree. I trust that you will make up your minds to adopt the contract as submitted so that the matter can be closed up and the bonds then disposed of so as to make the necessary improvements and expenditures that are required.

Yours truly,

(Signed) JAMES F. HOW,  
Vice Pres.

587

**Defendants' Exhibit 289.**

**The Des Moines Union Railway Company.**

G. M. Dodge, President.

F. M. Hubbell, Sec'y and Treasurer.

J. B. Van Dyne, Superintendent.

Des Moines, Iowa, 11/8 1888.

Mr. J. B. Van Dyne,

Sup't., Des Moines, Ia.

Dear Sir:

I have today issued seventeen notes in name of D. M. Union Ry. Co. favor of Rhode Island Locomotive Wks. for a total of

\$17600.00, covering cost of Switching Eng. #1 & 2. These notes become due monthly from Dec'r 10<sup>th</sup>; ten notes at \$1035.29 each and seven for \$1035.30 each.

You will please arrange to take care of these notes until our Bonds are placed. When Bonds are sold, we will pay the outstanding notes at the time and return amount paid on them by you.

Yours Truly,

G. M. DODGE,  
President.

588

### Defendants' Exhibit 290.

#### The Wabash Western Railway Company.

James F. How,  
Vice President & Treasurer.

St. Louis, Mo., Mar. 5th, 1889.

F. M. Hubbell, Esq.  
Des Moines, Ia.

Dear Sir:—

I am in receipt of your letter of Mar. 2nd. As the property referred to in your letter now belongs to the Des Moines Union Ry. Co., I think that that Co. should pay the interest on the mortgage and will also arrange to take care of the principal. The last payment of interest was made in the month of Jan'y, 1886.

Yours truly,

(Signed) JAMES F. HOW,  
Vice President.

589

### Defendants' Exhibit 291.

#### The Wabash Western Railway Company.

Office Chief Engineer.

St. Louis, Mo. Mch. 18th, 1889.

F. M. Hubbell, Esqr.,  
Des Moines, Ia.

Dear Sir:—

In compliance with your request to Jas. F. How, Vice Prest. of March 7th, 1889, I have to-day forwarded to you the deeds and other title papers to the property which was conveyed by the Company to the Des Moines Union Ry. Co. I have also annexed a list of said papers with a receipt attached thereto,

to which you will please attach your signature and return said list to me for file in my office.

Yours truly,

W. H. LINCOLN,  
Chf. Engineer  
Per H.

590

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**Defendants' Exhibit 292.****The Wabash Western Railway Company.**

James F. How,  
Vice President & Treasurer.

St. Louis, Mo., April 1st, 1899.

F. M. Huddell, Esq.  
Des Moines, Ia.

Dear Sir:—

I have just returned from the East and am in receipt of your letter of the 23rd ult. I think that the interest due on the deed of trust on the lot owned by the Terminal Co. referred to in your letter, should be paid and an arrangement made to continue the deed of trust on the property at a lower rate of interest. Of course the interest now due and to become due should be paid by the Terminal Co.

Yours truly,

(Signed) JAMES F. HOW,  
Vice President.

591

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**Defendants' Exhibit 293.****The Wabash Western Railway Company.**

James F. How,  
Vice President & Treasurer.

St. Louis, Mo., May 24th, 1899.

F. M. Huddell, Esq.  
Secretary, D. M. & St. L. Ry.  
Des Moines, Ia.

Dear Sir:—

I enclose herewith the records of the meeting of directors of the Des Moines & St. Louis Ry. called for yesterday and adjourned until to-day and also the records of the adjourned meeting held this day.

I also enclose four copies of the contract for the use of the Des Moines terminals, which I have signed as President of the Des Moines & St. Louis Ry. Co.; Will you please affix the seal of the Co. to same and attest it as Secretary; then please have the seal of the Des Moines Union Ry. Co. affixed to it, also that of the Des Moines & Northern, attested by the Secretaries of those respective Companies and then have all four of the contracts forwarded to Gen'l Dodge for execution as President of those two Co's. Will you please ask him when he has done this, to forward us the copy which is to be retained by the Des Moines & St. Louis Ry. Co.

Yours truly,

(Signed) JAMES F. HOW,  
Vice President.

**Defendants' Exhibit 294.**

**The Wabash Western Railway Company.**

James F. How,  
Vice President & Treasurer.

St. Louis, Mo., June 26th, 1889.

Messrs. Polk & Hubbell,

Des Moines, Ia.

Gents:—

I am in receipt of yours of June 26th calling attention to certain bills for delinquent taxes on railroad property in Des Moines. Any such bills that are a lien on the property transferred to the Des Moines Union Ry. Co. should be paid by that Co., all the property having been bought for that Co. and since been transferred to it.

I am also in receipt of a letter from Mr. Hubbell of same date referring to your letter and speaking of a similar tax certificate held by him on the same property. Will you please show this letter to him.

Yours truly,

(Signed) JAMES F. HOW,  
Vice President.

**Defendants' Exhibit 295.**

Jan. 22nd, 1898.

Wells H. Blodgett,  
Gen'l Supt'r Wabash Railroad Co.,  
St. Louis, Mo.

Dear Sir:—

At the last annual meeting of the stockholders of the Des Moines Union Railway Company, I suggested to those present several matters in which, in my opinion, the articles of incorporation of the company ought to be amended. Upon this there was a resolution offered and adopted, appointing you and myself a committee to re-draft these articles, and present our changes to a meeting of the stockholders on the 18th of February. I have made a draft of amended articles thinking it would save time to be able to present something tangible to you whenever we could get together. I regard the matter as an important one, and a change as absolutely necessary for the proper conduct of the company. We shall have to hold a consultation in regard to the matter within a short time, and I write to ask you when and where this consultation shall be held. If you desire me to come to St. Louis, I will endeavor to do so, if you can fix a day sometime three or four days in advance of the time you write. Be good enough to give me an early reply and oblige.

Yours very truly,

(Signed) A. B. CUMMINS.

**Defendants' Exhibit 296.**

Jan. 27th, 1898.

Gen. G. M. Dodge,  
No. 1 Broadway, New York.

Dear Sir:—

On account of Col. Blodgett's absence from home, I find that I will not be able to have a consultation with him, until shortly prior to the meeting of the stockholders of the Des Moines Union Railway Company called for February 18; therefore I enclose you a copy of the proposed amendments as they have been prepared by me, and also a copy of a resolution, which I have thought ought to be submitted to and passed by the stockholders after the amendments have been made.

You will observe that these amendments are directed to two purposes, first, to clear up the ambiguity and uncertainty with respect to the amount of stock to be issued on account of the original purchase of the property, second, to enable the Des Moines Union Railway Company to act in all matters

without the previous authority of three corporations. I have endeavored to protect the interest of the minority as fully as it is protected in the present articles, that is to say, under the amendments as now proposed the company cannot do anything of importance without the affirmative vote of the one-quarter of the stock which your road will represent or the vote of one of the directors which you will always be able to control. By this arrangement, you will have as effective a negative upon the conduct of the company exerted directly by your stock, as you now have by requiring the previous formal action of the Des Moines & Northern Railway Company. I have given the matter the most careful attention, and while Mr. Huddell was at first disposed to oppose the amendments which I have prepared, after a full explanation with him, I believe that he will support them. If this reaches you before he leaves New York, it will be well to talk the matter over with him. In any event give me your ideas as fully as you can, and particularly if you do not expect to be here.

Yours very truly,

(Signed) A. R. CUMMINGS.

299

### Defendants' Exhibit 297.

New York, Feby. 3, 1890.

F. M. Huddell, Esq.,  
Des Moines, Iowa.

Dear Sir:—

I will give you for the Purchasing Committee the option of buying of them \$135,000. of the Bonds of the Des Moines Union Railway Co. and 1/4 interest in the capital stock of that Company for \$135,000. and accrued interest from Nov. 1st, 1890 any time within ten days from this date. Payment to be made in cash if the option is availed of by you.

O. D. ASHLEY, Secy.  
Pur. Com.

New York, Feby. 3, 1890.

O. D. Ashley, Secy.

Dear Sir:—

I hereby accept the proposition made by you, for the Purchasing Committee to me, for the sale to me of \$135,000. of Des Moines Union Railway Co. Bonds, and a 1/4 interest in the Capital Stock of that Company, and hand you now \$10,

000. and will pay the balance as soon as you deliver the property.

Yours truly,

F. M. HUBBELL.

New York, Feby. 5, 1890.

Received of F. M. Hubbell his check for Ten Thousand Dollars on account of \$135,000. Des M. U. R. Co. bonds and one-quarter of the stock of said company as per letter written to him by me in behalf of the Purchasing Committee.

O. D. ASHLEY.

Mr. Ashley:

Please deliver the Bonds & Stock within mentioned to

F. M. HUBBELL.

Feby. 5, 1890.

### Defendants' Exhibit 298.

Draft of contract of February 11, 1890 for the purchase of Des Moines Union stock and bonds.

Know all Men by these Presents. That the Purchasing Committee of The Wabash Railroad Company, for and in consideration of the sum of \$67,000.00 and interest thereon at the rate of 5% per annum from November 1st, 1889, the receipt of which is hereby acknowledged, has sold, assigned and set over, and by these Presents does sell, assign and set over, unto F. M. Hubbell of Des Moines, Iowa, sixty-seven bonds of the Des Moines Union Railway Company, for \$1,000.00 eighth ~~capital stock~~ each, and also one-fourth of the ~~interest of said Purchasing Committee in the~~ capital stock of said Des Moines Union Railway Company.

And said Committee hereby authorizes and empowers said Des Moines Union Railway Company, or the proper Officers thereof, to issue to said Hubbell or his assigns, one-fourth of all the capital stock ~~to which said Committee is entitled in~~ said Des Moines.

*The said Purchasing Committee hereby guarantees the approval of the transfer of said stock to said Hubbell by the Des Moines and St. Louis Railroad Company of the transfer of said stock to said Hubbell within sixty days.*

In Testimony Whereof said Committee has caused these Presents to be signed by its Secretary this ..... day of February, 1890.

[The interlineations preceding the last paragraph before the attestation clause are in the handwriting of F. M. Hubbell. The paragraph preceding the attestation clause which is in italics is in the handwriting of W. H. Blodgett. The remainder of the draft is typewritten.]

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**Defendants' Exhibit 299.**

602

Know All Men By These Presents: That the Purchasing Committee of The Wabash, St. Louis & Pacific Railway Company for and in consideration of the sum of \$67,000.00. and interest thereon at the rate of 5% per annum from November 1st, 1889 the receipt of which is hereby acknowledged, has sold, assigned, and set over, and by these presents does sell, assign and set over unto F. M. Hubbell of Des Moines, Iowa, sixty-seven bonds of the Des Moines Union Railway Company for \$1,000.00 each, and also one-eighth of the capital stock of said Des Moines Union Railway Company.

And said Committee hereby authorizes and empowers said Des Moines Union Railway Company, or the proper officers thereof, to issue to said Hubbell or his assigns, one-eighth of all the capital stock in the said Des Moines Union Railway Company.

The said Purchasing Committee hereby guarantees the approval by The Des Moines and St. Louis Railroad Company of the transfer of said stock to said Hubbell within sixty days.

In Testimony Whereof, said Committee has caused these presents to be signed by its Secretary this 11th day of February, 1890.

O. D. ASHLEY, Secy.  
Purchasing Committee.

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**Defendants' Exhibit 300.**

603

Memorandum of an Agreement made between The Purchasing Committee of The Wabash, St. Louis & Pacific Railway Company, and F. M. Hubbell:

Whereas, it is provided in the Articles of Incorporation of the Des Moines Union Ry. Co. that the Wabash, St. Louis & Pacific Ry. Co. shall nominate four of the directors of said Des Moines Union Ry. Co.: and.

Whereas, the stock of said Union Ry. Co. is now held by different parties and in different proportions from what it was when said Articles were adopted;

Now Therefore, it is agreed between the Purchasing Committee of said Wabash, St. Louis & Pacific Ry. Co. (the successors of said Wabash, St. Louis & Pacific Ry. Co.) and F. M. Hubbell, who has acquired the ownership of one-eighth of the stock of the said Union Ry. Co. that said Purchasing Committee will consent to such change in said Articles of Incorporation as will permit one director of said Company to be nominated by any person or corporation holding one-eighth of the stock of the said Union Ry. Co.

In Witness Whereof, said Purchasing Committee has caused these presents to be signed by its secretary this 11th day of February, 1890.

O. D. ASHLEY, Sec'y.  
Purchasing Committee.

604

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**Defendants' Exhibit 301.**

No. 1 Broadway.

New York, Feb. 18th, '90.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:—

I closed out the rest of the bonds and they are in the hands of Messrs. Tilghman, Rowland & Co., and they hold an order for the one-eighth of stock. I paid \$69,001.28, and they gave the same kind of papers they gave you, excepting they agreed to turn the stock over to Rowland, who will transfer it to me. I have failed as yet to make a sale of the bonds, and I doubt whether we can unless we shade the price somewhat.

Yours very truly,

G. M. DODGE.

605

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**Defendants' Exhibit 301a.**

Office of  
The Wabash Railroad Company  
195 Broadway.

New York, April 5, 1890.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:—

I have yours of April 1st this morning. The result of my conversation with Messrs. Joy and Welles is a rather vague

idea that we ought not sell \$100,000 of the Des Moines Union Ry Terminal Bonds and one-eighth interest in the capital stock at less than \$115,000 and accrued interest on the Bonds, and I do not feel authorized to offer it at any less price. If, however, you will make me a definite bid of the best price you can, I will communicate it to the other members of the Committee and give you an early and definite reply. It must be understood, of course, that a one-eighth interest in the capital Stock shall be sufficient to represent a proprietorship in the Company according to the understanding we had when you were here.

Yours truly,

O. D. ASHLEY,  
President.

606

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**Defendants' Exhibit 302.**

Draft of record for meeting of Directors of the Des Moines & St. Louis Railroad Company April 8, 1890.

Meeting of the Directors of the Des Moines & St. Louis Railroad Company.

Des Moines, Iowa, April 8th, 1890.

The directors of the Des Moines & St. Louis Railroad Company, met in regular monthly meeting; Present Jas. F. How, C. M. Hays, A. B. Cummins, F. M. Hubbell, H. S. Priest and George S. Grover. Jas. F. How, Presiding.

C. M. Hays offered the following resolution and moved its adoption:

Whereas, the purchasing committee of the Wabash, St. Louis & Pacific Railway Company, has sold to F. M. Hubbell one-eighth and to G. M. Dodge one-eighth of the stock of the Des Moines Union Railway Company, and

Whereas, the entire capital stock of said Company owned by the company issued as a part of the purchase price thereof has been fixed at \$400,000.,

It Is Therefore Now Resolved that the sale by the said Purchasing Committee be, and the same is hereby ratified, confirmed and approved by the Des Moines & St. Louis Railroad Company.

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**Defendants' Exhibit 303.**

Amendments to  
Articles of Incorporation  
Of The

## Des Moines Union Railway Co.

We, the officers of the Des Moines Union Railway Company, a corporation existing under and by virtue of the laws of the State of Iowa, do hereby state and certify that at a meeting of the stockholders of said corporation duly called and held on the 8th day of April, 1890, for the purpose of amending the Articles of Incorporation, the said stockholders did unanimously and duly adopt the following amendments to said Articles of Incorporation and did unanimously and duly adopt each of said amendments, to-wit:—

F. M. HUBBELL,  
F. C. HUBBELL,  
A. B. CUMMINS,  
HORACE SEELY,  
L. M. MARTIN,  
CHAS. M. HAYS,  
JAMES F. HOW,  
WELLS H. BLODGETT,  
G. M. DODGE,  
H. D. THOMPSON,

608 Strike out Article I and substitute the following:

## Article I.

The name of the corporation shall be the "Des Moines Union Railway Company" and its principal place of transacting business shall be at Des Moines, in the County of Polk and State of Iowa.

Strike out Article II and substitute the following:

## Article II.

The objects of the corporation and the general nature of the business to be transacted shall be, the purchase, lease, construction, ownership, maintenance and operation of a system of railway in, around and about the City of Des Moines, Polk County, Iowa, including the construction, purchase, ownership, maintenance and use of a union depot, depots, freight houses, railway shops, repair shops, stock yards and whatever other things may be useful or convenient for the operation of

railways at terminal stations, as well as the transfer and switching of cars from the line or depot of one railway to another, or from the various manufactories, ware houses, elevators, or other sources of traffic to each other or to any of the railways or depots thereof, now constructed or hereafter to be constructed in or around said City of Des Moines; and also to lease terminal facilities to, and furnish and perform terminal service for all railways whose lines reach or pass through or near the said City of Des Moines; and the corporation shall possess all the powers conferred upon railway corporations by the laws of the State of Iowa, including the power to condemn private property for its use.

609 Strike out Article III and substitute the following:

### Article III.

The capital stock of the corporation shall be two million dollars (\$2,000,000) which shall be divided into shares of one hundred dollars each; said shares shall be paid for and issued in the manner following and not otherwise; four thousand shares as a part of the purchase price of the terminal property originally acquired by the corporation, it being now agreed by all the stockholders that said sum of four hundred thousand dollars, together with the first mortgage bonds heretofore issued for that purpose, constituted the fair value of said property when so acquired; and all resolutions and proceedings of the corporation heretofore had with respect to the amount of capital stock to be issued as such purchase price, are set aside and held for naught. Said four thousand shares of capital stock shall be issued to the following corporations and in the following proportions. Two thousand shares to the Purchasing Committee of the Wabash, St. Louis & Pacific Railway Company, successor in ownership to the Des Moines & St. Louis Railroad Company and the present owner of the property known as the Des Moines & St. Louis Railroad, one thousand shares to the Des Moines & Northwestern Railway Company, successor to the Des Moines North Western Railway Company, and one thousand shares to the Des Moines & Northern Railway Company, successor to the St. Louis, Des Moines & Northern Railway Company, and the said shares are hereby declared to be fully paid by the transfer of the aforesaid property. The remaining capital stock, to-wit, sixteen thousand shares or any part thereof shall be issued only by the authority of a resolution of the stock-

610 holders adopted by the vote of more than seven-eighths of all the stock theretofore issued, and shall be fully

paid either in money or property at its fair market value, before certificates therefor shall be executed and delivered.

The stock shall be transferable only upon the books of the Company by, and with the consent of three-fourths of all the Directors, except in the case the transferee of the stock is, or becomes the owner of either of the railroad properties above mentioned, in which event the stock shall be transferable by right and without consent.

Strike out Article IV and substitute the following:

#### Article IV.

The affairs of the corporation shall be managed and its business conducted by a Board of Directors composed of eight persons who shall be elected by the stockholders at their regular annual meeting to be held at the office of the Company in Des Moines, Iowa, on the first Thursday in January of each year, and they shall hold their offices for one year and until their successors are elected and qualified; but at all future elections of Directors, it shall require the votes of more than seven-eighths of all the stock theretofore issued, to elect any Director.

The Board of Directors shall have the power to authorize the execution of mortgages, to issue bonds, to enter into contracts, to purchase property, to construct buildings, to make leases, to authorize the institution of condemnation proceedings, and to do all such other things as may be proper or necessary for the corporation to do; but with respect to the matters above mentioned and all other matters except the ordinary operation of the property, the Board of Directors  
611 can act only upon the unanimous vote of the eight members thereof and in order to facilitate the transaction of business, power is expressly conferred upon each of the Directors to delegate by written authority, some other person to act or vote for him and in his stead; Provided that such authority shall be filed with the Secretary at or before the time the meeting convenes.

The Board of Directors shall annually select an executive committee, but such selection must be made by the vote of at least seven members.

The duties and powers of such committee shall be defined in the by-laws.

The Board shall elect the officers of the corporation hereinafter provided for and shall have the power to enact and publish by-laws not inconsistent herewith, but such officers must

be elected and such by-laws enacted by the unanimous vote of the eight members of the Board. All vacancies occurring in the Board shall be filled by the stockholders at a special meeting in the manner heretofore provided for the election of Directors.

Strike out Article V and substitute the following:

#### Article V.

The officers of the corporation shall be a President, Vice-President, Secretary and Treasurer (the offices of Secretary and Treasurer may be filled by one person) to be annually elected from the persons composing the Board of Directors as hereinbefore provided; and for that purpose, among others, the newly elected Board shall convene immediately after the adjournment of the annual meeting of the stockholders. Said officers shall hold their offices for one year and until their successors are elected and qualified; and they shall exercise such power and be charged with such duties as usually pertain to their respective offices, subject, however, to the limitations herein contained.

Strike out Article IX and substitute the following:

#### Article IX.

These Articles may be amended by a vote of more than seven-eighths of all the stock in favor thereof, at a meeting of stockholders thereof, of which a notice containing the proposed amendment shall be mailed to each stockholder at his address as disclosed by the transfer books of the Company.

Add Article XI as follows:

#### Article XI.

Special meetings of the stockholders may be called by the President or by four Directors; but at least ten days notice of such meeting shall be given to each stockholder by mailing to its or his address as shown by the books of the Company a notice stating the time and place of such meeting.

Add Article XII as follows:

#### Article XII.

At all meetings of stockholders, each stockholder shall be entitled to cast one vote for each share of stock owned by him or it, as may appear from the books of the Company, such vote may be cast either in person or by proxy, but if by proxy, written authority therefor must be filed with the Secretary at or before the time the meeting convenes.

613 Add Article XIII as follows:

### Article XIII.

It shall not be necessary in order to enable the corporation to carry on the business for which it is organized, that all its authorized capital stock be subscribed or taken.

Add Article XIV as follows:

### Article XIV.

The purchase of the property heretofore conveyed to the corporation, the conveyances made in pursuance thereof, the execution of Trust Mortgage to the Central Trust Company of New York, dated February 28th, 1887, and recorded in the Recorder's office of the County of Polk, State of Iowa, on the 21st day of May, 1888, in book 196, at page 525, and the issuance of bonds secured by the same are hereby approved, ratified and confirmed.

Add Article XV as follows:

### Article XV.

The proceedings of a meeting held December 10th, 1884, with certain preambles, including a contract executed on the 2nd day of January, 1882, between the Des Moines & St. Louis Railroad Company, the Des Moines Northwestern Railway Company and the St. Louis, Des Moines & Northern Railway Company, consented to by the Wabash, St. Louis & Pacific Railway Company, which now appears as a part of the Articles of Incorporation of this Company, are hereby repealed, stricken out and expunged.

614 State of Iowa, }  
Polk County } ss.

Be it remembered that on this 10th day of April, before me a Notary Public in and for said County and State, personally came F. M. Hubbell, F. C. Hubbell, L. M. Martin, A. B. Cummins, and Horace Seely, officers and directors of the Des Moines Union Railway Company, personally to me known to be the identical persons who signed the foregoing statement and certificate, and acknowledged the execution thereof to be their free and voluntary act and deed for the uses and purposes therein expressed.

## THE DES MOINES UNION RY. CO., ET AL.

Witness my hand and Notarial Seal this 10th day of April,  
1890.

(Seal.)

JAS. P. HEWITT,  
Notary Public,  
Polk County, Iowa.

State of Missouri, }  
County of St. Louis } ss.

Be it remembered that on this 14th day of April, before me a Notary Public in and for said County and State, personally came James F. How, Charles M. Hays and Wells H. Blodgett officers and directors of the Des Moines Union Railway Company, personally to me known to be the identical persons who signed the foregoing statement and certificate and acknowledged the execution thereof to be their free and voluntary act and deed for the uses and purposes therein expressed.

Witness my hand and Notarial Seal this 14th day of April,  
1890.

(Seal.)

B. C. WINSTON,  
Notary Public,  
City St. Louis, Mo.

Commission expires Nov. 1st, 1893.

613 State of New York, }  
County of New York } ss.

Be it remembered that on this 16th day of April before me, a Notary Public in and for the County of Kings and State of New York aforesaid, personally came G. M. Dodge, President and Director of the Des Moines Union Railway Company, personally known to be the identical person who signed the foregoing statement and certificate and acknowledged the execution thereof to be his free and voluntary act and deed for the uses and purposes therein expressed.

Witness my hand and Notarial Seal this 16th day of April,  
1890.

(Seal.)

WILLIAM MOLLOY,  
Notary Public,  
Kings County, N. Y.  
Certificate filed in N. Y. Co.

State of Iowa, }  
Polk County } ss.

Be it remembered that on this 21st day of April, before me, a Notary Public in and for said County and State, personally came H. D. Thompson, Director of the Des Moines Union Railway Company, personally to me known to be the identical person who signed the foregoing statement and certificate and acknowledged the execution thereof to be his free and voluntary act and deed for the uses and purposes therein expressed.

Witness my hand and Notarial Seal this 21st day of April, 1890,

(Seal.)

J. E. BROWNE,  
Notary Public,  
Polk County, Iowa.

616 State of Iowa—ss.

Filed for record in office of Secretary of State, May 12th, A. D. 1890, and recorded in Book C-2, Page 49 to 54 inclusive.

FRANK D. JACKSON,  
Secretary of State.

By C. S. Byrkit,  
Deputy.

Polk County, Iowa.

Filed for record April 23, 1890, at 10:50 o'clock A. M. and recorded in Book 6, Page 339.

GEO. C. SIMS,  
Recorder.

617

**Defendants' Exhibit 303a.**

**The Wabash Railroad Company.**

James F. How, Vice-President,

St. Louis, Mo., April 17th, 1890.

Mr. F. M. Hubbell,  
Sec'y, Des Moines & St. Louis Railroad Company,  
Des Moines, Iowa.

Dear Sir:—

Enclosed please find Certificate No. 23 for 9,996 shares of the Des Moines & St. Louis Railroad Company stock issued to the Mercantile Trust Company, Trustee. Please issue

Certificate in lieu of same as per the endorsement on the enclosed Certificate to James F. Joy, T. H. Hubbard, Edgar T. Welles and O. D. Ashley, Purchasing Committee, Trustees, and return same to me, and much oblige.

Yours truly,

JAMES F. HOW,  
Vice-President.

618

**Defendants' Exhibit 303b.**

**The Wabash Railroad Company.**

James F. How, Vice-President.

St. Louis, Mo., April 28th, 1890.

Mr. F. M. Hubbell,  
Sec'y. Des Moines & St. Louis R'y.  
Des Moines, Iowa.

Dear Sir:—

Your letter of April 22nd is received and I send herein:—

Certificate No. 11 for one share of stock in the Des Moines & St. Louis R'y issued to J. S. Clarkson, for which please issue a certificate in the name of W. H. Blodgett.

Certificate No. 12 for one share of stock in the same company issued to J. S. Runnels, for which please issue Certificate in the name of Geo. S. Grover.

Certificate No. 17 for one share of stock in the same company issued to A. L. Hopkins, for which please issue certificate in the name of H. S. Priest.

Certificate No. 18 for one share of stock issued to R. S. Hays, for which issue certificate in the name of O. D. Ashley.

Certificate No. 19 issued to H. M. Hoxie, for which please issue Certificate in the name of A. B. Cummins.

Certificate No. 20 for one share issued to Mr. Gould for which please issue certificate in the name of Chas. M. Hays.

Please return the new certificates to me and much oblige.

Regarding the resolution referred to in your letter which Col. Blodgett is to prepare, he says that he has been busy since his return from the east, but will forward it to you in a few days.

Yours truly,

JAMES F. HOW,  
Vice-President.

1612

344

THE C., M. &amp; ST. P. RY. CO. ET AL., VS.

619

**Defendants' Exhibit 303c.****The Wabash Railroad Company.**

James F. How, Vice-President.

St. Louis, Mo., May 10th, 1898.

Mr. F. M. Hubbell,

Sec'y. Des Moines & St. Louis Railroad Co.,  
Des Moines, Iowa.

Dear Sir:—

I am in receipt of yours of May 7th, enclosing Certificates of stock of the Des Moines & St. Louis Railroad Co., Nos. 24-30 inclusive, and issued to the parties mentioned in your letter. I enclose herewith the Certificate issued to Mr. Cummins. Will you please have same endorsed and returned to me, and much oblige.

Yours truly,

JAMES F. HOW,  
Vice-President.

620

**Defendants' Exhibit 304.****The Wabash Railroad Company.**

James F. How, Vice President.

St. Louis, Mo., May 20th, 1898.

Mr. F. M. Hubbell,

Des Moines, Iowa.

Dear Sir:—

I am just in receipt of yours of the 17th, giving list of certain property that you have purchased in Des Moines, which you offer to sell to the Des Moines Union Railway Company, at the price you paid for same, with interest from the date of purchase, said offer to be accepted at any time within thirty days of the date of your letter. As I understand it, this question will have to be acted upon by the Board of Directors of the Des Moines Union Railway Company, and I suppose your letter is written with the idea of ascertaining how Mr. Hays and myself would vote on the question at such a meeting. It is our opinion that your offer should be accepted, provided the Des Moines Union Railway Company can pay for the property in their bonds at par, with accrued interest.

Yours truly,

(Signed) JAMES F. HOW,  
Vice President.

1013

**Defendants' Exhibit 305.**

621

Agreement between F. M. Hubbell and Purchasing Committee for sale to Mr. Hubbell of 50 bonds Des Moines Union Ry. Co. and 500 shares of its stock, dated June 5, 1890.

New York, June 5, 1890.

This Agreement Witnesseth: That James F. Joy, O. D. Ashley, Thomas H. Hubbard and Edgar T. Welles, constituting the Purchasing Committee of the Wabash, St. Louis & Pacific Railway Company, do hereby sell to F. M. Hubbell fifty (50) bonds of \$1,000 each of the Des Moines Union Railway Company and five hundred (500) shares of the stock of said Des Moines Union Railway Company for the sum of fifty-seven thousand, seven hundred and thirty-six dollars (\$57,736.)

We hereby acknowledge the receipt of \$7,736 cash in part payment, and said Hubbell's notes for \$50,000 to represent the balance due on this contract as follows:

One note for	\$5,000	due	July 5,	1890
" " "	\$5,000	"	Aug. 5,	1890
" " "	\$5,000	"	Sept. 5,	1890
" " "	\$5,000	"	Oct. 5,	1890
" " "	\$5,000	"	Nov. 5,	1890
" " "	\$5,000	"	Dec. 5,	1890
" " "	\$5,000	"	Jan. 5,	1891
" " "	\$5,000	"	Feb. 5,	1891
" " "	\$5,000	"	Mar. 5,	1891
" " "	\$5,000	"	Apr. 5,	1891

with interest at 5% per annum.

It is further agreed that all of said bonds and stock shall be deposited with the Central Trust Company of New York as collateral security for the payment of said notes, and that when the first two of said notes are paid that then the said 500 shares of stock shall be delivered to said Hubbell by certificate transferred by endorsement, and we agree to have the same transferred on the books of said Des Moines Union Railway Company, so far as the vote of the Directors of said Des Moines Union Railway Company, representing the Des Moines & St. Louis Railway Company, will secure said transfer.

F. M. HUBBELL  
THE PURCHASING COMMITTEE  
JAMES F. JOY, O. D. ASHLEY  
T. H. HUBBARD & EDGAR T. WELLES,  
By O. D. Ashley Secretary of said Committee.

623

**Defendants' Exhibit 305a.**

No. 1 Broadway.

New York, June 6th, 1890.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:—

I duly received yours of May 17th in re. property you have bought at Des Moines. I would like to have you send me a map showing this property. I think the Des Moines Union Railway Co. should take it as soon as they can raise the money to do so on their bonds.

Yours very truly,

G. M. DODGE.

624

**Defendants' Exhibit 305b.**

Office of  
The Wabash Railroad Company.  
195 Broadway.

New York, June 7, 1890.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:—

I enclose herewith receipt of the Central Trust Company for the fifty bonds of \$1,000 each of the Des Moines Union Ry Co. and the ten notes signed by you, according to the agreement, duplicate of which you have. These bonds and notes are with the agreement now in the possession of the Central Trust Company for the purpose of carrying out the provisions of that agreement.

As soon as we receive the 500 shares of Capital Stock of the D. M. U. Ry Co. we will also deposit that, as understood between us:

Yours truly,

O. D. ASHLEY,  
President.

625

**Defendants' Exhibit 305c.**

Office of  
The Wabash Railroad Company.  
195 Broadway.

New York, Oct. 5, 1891.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:—It has been suggested to me that perhaps we can arrange for the negotiation of the Des Moines Union Ry Co.

bonds, including those owned by the Purchasing Committee and yourself, with parties in London or New York. In order to do this, I should like to have you forward to me a description of the property mortgaged and your valuation of the same, together with copies of the agreements of the lessee companies, and copies, also, of the mortgage and bond. Also a statement of what improvements it is proposed to put upon the property.

I have said that I thought these bonds could be sold at a price which would net 90 to the holders, and I think now is the time to begin the negotiation. The Purchasing Committee hold \$205,000 of these bonds, and I think you individually, have over \$100,000. It will be necessary in making this negotiation to unite all of these bonds in one mass, so that the seller may control the market and the sale can be made pro rata according to the contributions.

Let me hear from you at your earliest convenience, and believe me,

Yours truly,

O. D. ASHLEY.

626

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**Defendants' Exhibit 305d.**

Telegram.

St. Louis, Mo. Nov. 27, 1891.

F. M. Hubbell, Secy.,

Were any certificates of stock ever issued to Mr. Hays and myself to qualify us as directors of the Des Moines Union Railway Company, or were the entries simply made on the book. Answer.

JAMES F. HOW.

627

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**Defendants' Exhibit 305e.**

**The Wabash Railroad Company.**

James F. How, Vice-President.

St. Louis, Mo. Nov. 30th, 1891.

Mr. F. M. Hubbell,

Sec'y Des Moines Union R'y Co.,  
Des Moines, Iowa.

Dear Sir:—

Yours of the 28th inst. enclosing certificates Nos. 6 and 7 for one share of stock each in the Des Moines Union Railway Company, issued to Mr. Hays and myself, is received.

Yours truly,

JAMES F. HOW,  
Vice-President.

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**Defendants' Exhibit 306.****The Wabash Railroad Company.**

General Manager's Office.

Chas. M. Hays, General Manager.

St. Louis, April 28th, 1892.

Mr. F. M. Hubbell,

Prest. Des Moines Union Ry. Co. Des Moines, Ia:

Dear Sir:—

I have yours of the 27th in regard to switch to the works of the National Starch Manufacturing Company, West Des Moines, which happened to reach me just as President Ashley was in my office discussing other matters and I therefore laid it before him for his opinion. He agreed with me in my view of the matter, as expressed to you when we discussed it when I saw you in Des Moines last and that is, if it was necessary to run the track off of the main line of the Wabash Road, it should be owned and controlled by this Company, with the privilege to the Des Moines Union, however, of access to and from the Works on the payment of a reasonable car and engine trackage rate. We would not be willing to dispose of the portion of the Wabash main track that would lie between that switch and the present terminus of the Des Moines Union track. In the first place, we would expect a much larger price for the property than the Des Moines Union Railway would, in all probability, be willing to pay, and there are other reasons which we can foresee that would make such action unwise. If the Starch Company desire us to put in the track for them at their expense, in order that they may control the ownership (as I understand from you it is their desire

629 to do) we will be very glad to take the matter up at an early date.

Yours truly,

(Signed) CHAS. M. HAYS,  
General Manager.**Defendants' Exhibit 307.****The Wabash Railroad Company.**

General Manager's Office.

Chas. M. Hays, General Manager.

St. Louis, April 22nd, 1893.

Mr. F. M. Hubbell,

Secy. &amp; Treasurer,

Dear Sir:—

I have your favor of the 19th, in regard to N. 2-3 of lot 6, block 15, bought by Swift & Co. and now offered to us at \$8,663.80.

While it seems to me that it is desirable that the lot should be owned by the Des Moines Union Company, we are not in such position that we feel we can, conveniently, advance the amount that would be chargeable to us on usual basis for distributing the expense of such purchase. I think since you are now the largest holder in Des Moines Union Bonds and stock, you should sell the lot to the Company and take bonds at par for same. As a Director of the Des Moines Union Company, I am willing to approve getting lot in this way, but I am not willing to approve of it on basis of each Company contributing its proportion of the purchase price and taking bonds therefor.

Yours truly,  
(Signed) CHAS. M. HAYS,  
General Manager.

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**Defendants' Exhibit 308.**

631

February 22, '94.

Mr. Roswell Miller, President,  
Chicago, Milwaukee & St. Paul Railway Company,  
Chicago, Ill.

Dear Sir:—

Your favor of the 20th is received and noted. Enclosed I send you a copy of the Articles of Consolidation and Incorporation and Trust Mortgage of the Des Moines, Northern & Western Railway Company. There has been bonds issued on this property to the amount of \$2,770,000. I have no printed copy of the Articles of Incorporation of the Des Moines Union Railway Company, but will say they were drawn by our Attorney, Mr. A. B. Cummins, and I think are all right, and if important to you, can have a copy made and sent you. The amount of bonds authorized by that Corporation is \$800,000, bearing 5% interest, of which amount \$612,000 have been issued. I enclose plat of Des Moines Union. We have about five miles of right of way occupied by about twenty miles of track. The Des Moines, Northern & Western Railway Company own one-fourth of the capital stock of the Des Moines Union Railway Company. The Wabash own one-eighth and five-eighths is owned by individuals.

If you desire any further information, I shall be glad to furnish it.

Yours truly,  
(Signed) F. M. HUBBELL,  
President.

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**Defendants' Exhibit 309.**

This Indenture, made this Fifteenth day of March A. D. 1894, by and between the Des Moines, Northern & Western Railway Company, hereinafter called the "Des Moines Company," a corporation of the State of Iowa, and the Chicago, Milwaukee & St. Paul Railway Company, hereinafter called the "St. Paul Company," a corporation of the State of Wisconsin, authorized to own and operate Railroads in the State of Iowa,—Witnesseth:

1. That the Railroads of said Companies intersect, are connected and can exchange traffic each with the other at Madrid and Herndon, in the State of Iowa, and by reason of such connections can form a through Line, reaching the principal Cities and Towns in said State, and States adjacent, and each can furnish to the other traffic not otherwise obtainable.

2. That it is for the interest of both Companies to establish and maintain close traffic relations with each other, and, so far as they lawfully may, to work jointly for their common benefit as against competing lines of Railroad.

3. That the St. Paul Company owns and controls a large amount of the Capital Stock of the Des Moines Company, and desires to have a voice in directing its traffic affairs; and

4. That, in consideration of the benefits and advantages which they expect to derive from this undertaking, and of their mutual and dependent covenants hereinbelow set forth, the said Companies have agreed and do hereby agree each with th other, as follows, to-wit:

633 First. The Des Moines Company hereby agrees that the entire amount of its indebtedness, secured by Mortgage on its Railroad and property, is Two Million, Seven Hundred and Seventy Thousand Dollars in Bonds, bearing interest at the rate of Four per cent. per annum until January 1st, 1897, and thereafter at Five per cent. per annum, together with the interest accrued to this date on said Bonds; and that it will not, without first obtaining the written consent of the St. Paul Company, make or execute any other or further Mortgage on said premises, and will not increase its present bonded indebtedness, except by the issue of Bonds at par for the actual cost of property hereafter acquired, and that the Bonds, if any, so to be issued shall not, without like consent, bear interest at a higher rate than Four per cent. per annum; and it also agrees that it will faithfully endeavor to reduce the rate of interest on its Bonds now outstanding so that they shall,

from and after April 1st, 1897, bear interest at not exceeding Four per cent. per annum.

Provided however, that this Section shall not be construed so as to prevent the Des Moines Company from making a new Mortgage, and issuing new Bonds thereunder, for the purpose of renewing or extending its present mortgage indebtedness; but provided also, that the new Bonds so to be issued shall bear interest at not exceeding Four per cent per annum, and shall not exceed in amount the aggregate of the principal sum of the present outstanding Bonds of said Company and the interest thereon which shall have accrued and be unpaid at the time of the issuing of new Bonds therefor; and provided, further, that said new Bonds, or their proceeds, shall be  
634 used only for the purposes aforesaid, and that the present outstanding Bonds and coupons, exchanged therefor or redeemed thereby, shall be canceled when and as so exchanged or redeemed.

Second. The Des Moines Company further agrees that the entire amount of its Capital Stock now issued and outstanding is Four Million, Two Hundred Thousand Dollars, divided into Forty-two Thousand Shares of One Hundred Dollars each, and that all said Shares have equal rights and preferences; and that it will not, without first obtaining the written consent of the St. Paul Company issue any other or further shares, except at par for the actual cost of property hereafter acquired.

Third. The Des Moines Company further agrees that its Board of Directors shall consist of not more than Seven members, and that it will appoint a Traffic Manager, who shall have charge of, and full powers in regard to, its Freight and Passenger Traffic, and who shall be at all times acceptable to the St. Paul Company, and that the rates on all traffic covered by or contemplated in this Agreement shall be made by, or with the consent of, the St. Paul Company.

Fourth. The Des Moines Company further agrees to maintain its Railroad, equipment and appurtenances in good order and repair, and to operate its trains in close connection with the trains of the St. Paul Company, and to accept, as its share of the revenue which may be derived from the traffic contemplated herein, the divisions mentioned and set out in the next succeeding Section hereof.

Fifth. The St. Paul Company hereby agrees that on all traffic by it received from or delivered to the Des Moines  
635 Company the following divisions shall be made:

(a) On Freight traffic between Chicago, or points taking Chicago rates, and points on the Lines of the Des Moines Company, that Company shall receive forty per cent (40%) and the St. Paul Company sixty per cent (60%) of the gross rate.

(b) On Freight traffic between points on the St. Paul Company's lines east of the Mississippi River, taking higher than Chicago rates, and points on the lines of the Des Moines Company, that Company shall receive thirty-five per cent (35%) and the St. Paul Company sixty-five per cent (65%) of the gross rate.

(c) On Freight traffic between Minneapolis, Minnesota Transfer and St. Paul, or other points taking the rates of said Stations, and points on the Lines of the Des Moines Company, that Company shall receive thirty-five per cent (35%) and the St. Paul Company sixty-five per cent (65%) of the gross rate.

(d) On Freight traffic between points on the St. Paul Company's lines in Iowa and points on the lines of the Des Moines Company, that Company shall receive forty per cent (40%) and the St. Paul Company sixty per cent (60%) of the gross rate.

(e) On Freight traffic between points on the St. Paul Company's lines in North and South Dakota and Minnesota, and points on the lines of the Des Moines Company, that Company shall receive thirty-five per cent (35%) and the St. Paul Company sixty-five per cent (65%) of the gross rate.

(f) On Freight traffic between points on which the rate shall be made up of the two local rates, each Company shall be entitled to its local rate.

636 (g) On Passenger traffic between points on the Lines of the St. Paul Company and points on the Lines of the Des Moines Company, the last named Company shall receive its local rates, except in cases of special arrangements which the parties hereto may, from time to time, mutually agree upon.

(h) On any traffic not hereinabove provided for, delivered by either party to the other, just and equitable divisions shall be made from time to time, as circumstances may require.

Sixth. It is mutually understood and agreed by and between the parties hereto that the term "gross rate", as used herein, means the proportion of the through rate which accrues to both parties hereto; and that all accounts, settlements and payments, growing out of this agreement, shall be presented and made monthly.

Seventh. It is further mutually understood and agreed that neither party hereto shall discriminate against the other in favor of any other line of Railroad or any transportation Company, in respect to any traffic covered by this agreement, and that both Companies shall work jointly for their common interest as against competing Lines; and that each Company will, so far as it lawfully may, turn over to the other Company all traffic destined to points on such other Company's Lines or reached by reasonably direct connections thereof.

Eighth. It is further mutually understood and agreed that if any question shall hereafter arise touching the construction of this contract, or any part thereof, or concerning the business or mode of transacting the business to be carried on under its provisions, or concerning the observance or performance of any of its conditions, upon which question the parties hereto cannot agree, the same shall be submitted to the arbitrament of three disinterested persons familiar with such business and experienced in railroad management, to be chosen: One by the Des Moines Company, one by the St. Paul Company, and the other by the two so chosen. The party desiring such arbitration shall select its arbitrator, and give written notice thereof to the other party, and if either of the parties hereto shall fail to name an arbitrator within twenty days after notice as aforesaid has been by the other given to it, the arbitrator named by the party giving such notices shall name and appoint an arbitrator for and on behalf of the party so in default, and the arbitrator so named and appointed shall have the same power and authority as though he had been chosen by such party. The said Arbitrators shall, so soon as possible after their selection, meet at the City of Chicago, unless they shall designate some other place of meeting, to hear and decide the questions submitted to them, and shall give to each party reasonable notice of the time and place of such meeting; and after hearing both parties in regard to the matter in dispute, and taking such other testimony, or making such examinations and investigations as they, the said arbitrators, may deem necessary, they shall make in writing their award upon the question or questions so submitted to them, and serve a copy thereof on each party hereto; and such award of said arbitrators, or a majority of them, shall be final and binding upon said parties, and each or either party shall immediately make such changes in the management or conduct of its business, or such payments or restitution, as the case may be, as are in and by such award re-

quired of it to be made: Provided, however, that until the said arbitrators shall make their award upon any question or questions submitted to them, the business, settlements and payments to be transacted and made under the terms of this agreement shall continue to be transacted and made in the manner and form existing prior to the arising of such question or questions.

Lastly. It is further mutually understood and agreed that, subject to the faithful observance and performance by each party of all its covenants and agreements hereinabove set forth, this agreement shall be and remain in force for Ten Years from and after the First day of November, 1893; provided however, that the St. Paul Company may terminate the same at any time after the 1st day of February, 1899, by giving to the Des Moines Company sixty days' previous notice in writing of its desire and intention so to do; and provided also, that it may, if it so elects, terminate the same without notice on the Second day of April, 1897, if at that time the Des Moines Company has failed to perform any of its covenants contained in the First Article hereof, or if the Mortgage Bonds of the Des Moines Company then bear interest at a higher rate than Four per cent per annum; but provided always, that at any such termination each Company shall be released from all obligation or liability to the other, except for the  
 639 payment of any then unpaid award of arbitrators, or of any balances due or to become due for traffic carried under the terms of this Contract.

In Witness Whereof, the Des Moines Company and the St. Paul Company have caused these presents to be executed by their proper officers thereto duly authorized and their Corporate Seals to be hereto affixed and properly attested, the day and year first above written.

(Seal) DES MOINES, NORTHERN & WESTERN  
RAILWAY COMPANY,

By F. M. Hubbell, President.

Attest: R. L. Chase, Secretary.

(Seal) CHICAGO, MILWAUKEE & ST. PAUL  
RAILWAY COMPANY,

By Roswell Miller, President.

Attest: P. M. Myers, Secretary.

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1623

640

**Defendants' Exhibit 310.**

June 11, 1894.

Mr. F. L. O'Leary,  
Treas., Wabash R'y.,  
St. Louis, Mo.

Dear Sir:—

I am sending you today by U. S. Express under separate cover, D. M. Union bonds 612 to 619 inc., amount \$9,000, in settlement of money advanced on Permanent Improvements of the D. M. Union per resolution of the Board of Directors of last January. Please acknowledge receipt of same.

Yours truly,

(Signed) F. C. HUBBELL, Presd

641

**Defendants' Exhibit 311.**

June 11, 1894.

Mr. C. M. Hays,  
Gen. Mgr. Wabash R'y.,  
St. Louis, Mo.

Dear Sir:—

I am sending today to your Treasurer D. M. Union bonds 612 to 619 inc., in settlement of money advanced by your Company to D. M. Union for permanent improvements.

Yours truly,

(Signed) F. C. HUBBELL, V. P.

642

**Defendants' Exhibit 312.**

October 17, 1894.

Mr. Chas. M. Hays,  
Vice Presd. Wabash R'y. Co.,  
St. Louis, Mo.

Dear Sir:—

In the purchase of the Heath lots and the lots upon which the freight house is built, the D. M. Union incurred an indebtedness of \$50,775.00 which at the time was expected to be placed in St. Louis at a very low rate of interest but on account of a sudden stringency in the money market, your Company was unable to place this loan and it has been carried temporarily by the Equitable Life Ins. Co. of Iowa, at eight per cent interest. The paper is past due. While the Insurance Company is very willing to continue the loan at the present rate of interest, I feel that the D. M. Union ought to get a lower rate of interest, if possible. The loan is well secured

by a mortgage on the lots and by a deposit of \$50,000 of D. & Union first mortgage bonds. I think we could make some arrangement whereby the debt can be reduced to about \$40,000 by payment out of this Company's Surplus Earnings in the near future, thus improving the security. With this accomplished, cannot your Company arrange with your eastern financial agents, to carry this loan on a five per cent basis? In the event that the loan is placed in the east by you, we would want it for a time certain, so that the Union Company would not be embarrassed by being called upon without notice to pay this large amount of money.

We would like to have this loan fixed so that \$3,000 of  
643 it could be paid every six months out of future Surplus Earnings with option to this Company to pay it all on any interest day after three years. The interest can be payable semi-annually, both interest and principal payable either in St. Louis or New York as may be found desirable.

Yours truly,

(Signed) F. C. HUBBELL, Pres.

\$50,000 at 8% = \$4,000

10,000 at 5% = 2,000

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Saving of 2,000 per annum.

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644

### Defendants' Exhibit 313.

#### The Wabash Railroad Company.

Office.

Chas. M. Hays, Vice-Prest. & Genl. Mgr.

St. Louis, Mo., Oct. 22nd, 1894.

Mr. F. C. Hubbell,

Prest. Des Moines Un. Ry.

Des Moines, Iowa.

Dear Sir:—

Replying to yours of Oct. 17th relative to the indebtedness of \$50,775.00 incurred by the Des Moines Union Ry. Co. in connection with the purchase of the Heath lots.

I note your suggestion that we should apply our surplus earnings and reduce the debt to the amount of \$40,000.00 and your inquiry if with this accomplished we can arrange to carry the loan on a 5% basis.

Upon looking into the matter I find I can make a loan for three years, with the Commercial Bank on the basis of 4%

per annum, interest payable semi-annually, and \$3000.00 to be paid every six months. Or, if you prefer, you can make it \$5000.00 payable at the end of every year. They would want the collateral you mention, of deed of trust on the property, and \$60,000.00 of the Des Moines Un. Ry. First Mortgage bonds.

I enclose form of collateral notes and suggest that if this proposition is accepted, you draw up interest notes to run with each principal note, executing the notes in the two places provided therefor, and send to me with the \$60,000.00  
645 Des Moines Un. Ry. First Mortgage Bonds, deed of trust and abstract of title to the property conveyed, when I will arrange to get the money and forward you by express.

Yours truly,

CHAS. M. HAYS,  
Vice Pres. & Genl. Mngr.

646

#### Defendants' Exhibit 314.

#### The Wabash Railroad Company.

#### Office

Chas. M. Hays, Vice Pres. & Genl. Manager.

(Dictated.)

St. Louis, Mo., Nov. 7th, 1894.

Mr. F. C. Hubbell,

Pres. Des Moines Un. Ry. Co.,

Des Moines, Iowa.

Dear Sir:—

On my return Monday from a week's absence in the East, I found your letter of Oct. 30th, relative to the new loan on the Beath property.

Yesterday being a holiday I did not have an opportunity to see the Bank officers but have seen them this morning, and as a result, wired you as follows:

"Reply to yours of October thirtieth delayed by absence from home. Bank states that they do not want to hold the matter open indefinitely, but if you will send the papers within the next four or five days, will carry out the loan as proposed."

If you will now have the drawing up of the necessary paper hastened, can get the matter in shape.

Yours truly,

CHAS. M. HAYS,  
Vice Pres. & Genl. Mngr.

**Defendants' Exhibit 315.**

Nov. 8, 1894.

Mr. Chas. M. Hays,  
Vice Prest. Wabash R'y Co.,  
St. Louis, Mo.

Dear Sir,—

Herewith I hand you two notes one due in 6 months and one due in one year for the approval of your banker. The date of the collateral bonds is not inserted, as I did not have the date at hand. If the form of note is satisfactory, in other respects, we will fill out the remainder of the blanks and execute the notes as per schedule which I hereto attach:

Note Due.	Amount.	Amount Collateral.
6 months,	\$ 3,000.00	\$ 4,000.00
12 "	3,000.00	5,000.00
18 "	3,000.00	4,000.00
24 "	3,000.00	5,000.00
30 "	3,000.00	4,000.00
36 "	3,000.00	5,000.00
36 "	22,000.00	33,000.00
	<hr/>	<hr/>
Total,	40,000.00	60,000.00

These notes will have as security, in addition to the \$60,000.00 collateral bonds, a first mortgage upon the real estate in Des Moines for which the Company paid \$50,775.00. If the notes are satisfactory, please return them promptly for execution.

We are having the necessary resolution prepared, authorizing the cancellation of the present mortgage on the Heath lots and authorizing the making of a new mortgage to secure your bank. As soon as the resolutions are completed, I will  
648 send same to you for your approval before our Board passed it.

You will notice that the notes are dated December 1st. It will bother us to make payment of \$10,775.00 before that date and if agreeable to your banker, we would like to have that date fixed as the commencement of the new loan. We trust the bank will raise no objection to having the collateral bonds proportioned to the several notes. We are undertaking to pay \$3,000 every six months on this loan and should we find it impossible to raise the money, we would want the collateral

attached to each note, in order to make loan elsewhere to take up the debt to the bank.

Yours truly,

F. C. HUBBELL,  
President.

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**Defendants' Exhibit 316.**

**The Wabash Railroad Company.**

Office

Chas. M. Hays, Vice-Prest. & Genl. Mgr.

St. Louis, Mo. Nov. 10th, 1894.

Mr. F. C. Hubbell,  
Prest. Des Moines Un. Ry.  
Des Moines, Iowa.

Dear Sir:—

I have your two favors of November 8th relative to the \$40,000.00 loan to the Des Moines Union Railway Company for the purpose of taking up existing loan on the Heath property.

I have submitted your letters to President Wm. Nichols of the Commercial Bank, and he suggests that instead of drawing your notes as per samples you enclosed, that you draw them as pay copy I herewith send you, providing for letting the interest run with the notes and insert as collateral for the notes in addition to the bonds, reference to the deed of trust covering description of the property.

As the bank is holding the money for the purpose of making the loan and does not want to be at a loss of too much interest, would prefer to have the notes as of date November 15th. If you will have them drawn up as above, properly executed, and send direct to Mr. Wm. Nichols, President of the Commercial Bank, he will send you check for principal of the notes. I have enclosed with this, a few additional blank notes for your use as you may find necessary.

649 The form of resolution for passage by Board of Directors of the Des Moines Union Railway is satisfactory. As I start Monday morning for our annual inspection trip and will be out on the line of the road for ten days, I cannot well arrange to be in Des Moines to attend meeting to take action on these resolutions, although I shall arrive there on our trip on the 18th inst. at 9:40 P. M. and leave the following morning at seven o'clock.

As the bank is getting somewhat impatient awaiting the consummation of this loan, I will be obliged to you if you will have the matter hurried as much as possible.

Yours truly,

CHAS. M. HAYS,  
Vice-Prest. & Genl. Mngr.

651

**Defendants' Exhibit 317.**

November 20, 1894.

Mr. Roswell Miller, President,  
Chicago, Ill.

Dear Sir:—

Have you heard from New York with reference to the provisions of the new first mortgage bonds which are to be executed by the Railroad Company successor to the present Des Moines, Northern & Western Ry. Co?

Since I saw you in Chicago I have had an interview with Genl. Dodge and told him of our conversation, and he seems to think \$300,000. of bonds in the treasury for new equipment, additional terminals, and new construction is sufficient, and as much as should be provided for that purpose. He is willing to have \$10,000. per mile issued for new extensions.

I desire to have this matter understood as speedily as possible, as I wish to place the copy in the hands of the engraver.

The road is to be sold on the 15th of December, and we hope to have the sale confirmed by the first of January, and a new company organized by that time. The Court may, however, require thirty days to elapse between date of sale and date of confirmation.

Hoping to hear from you soon, I remain,

Yours truly,

(Signed) F. M. HUBBELL,  
President.

652

**Defendants' Exhibit 318.**

**Chicago, Milwaukee & St. Paul Railway Co.**

Office of the President.

Roswell Miller,  
President.

Chicago, Nov. 24th, 1894.

F. M. Hubbell, Esq.,  
President D. M. N. & W. R'y Co.,  
Des Moines, Iowa.

Dear Sir:—

I have yours of the 22nd instant.

## THE DES MOINES UNION RY. CO., ET AL.

I have not heard again from Mr. Bond, but presume that I shall shortly, and will then communicate further with you. I am still of the opinion that \$10,000 per mile for extensions is too small to be of any use. It would be better not to have any provision for extensions than to have an insufficient one. You cannot build and complete a road through an average country for \$10,000 per mile. You can do the grading and lay the track for perhaps a little less than that amount, but by the time the road gets well settled and is ballasted and put in permanent condition you will have expended much more than that.

I think the amount authorized for extensions should be liberal enough to take care of the cost, and that there should be a proviso that of such authorized amount only so much shall be used as represents the actual cost, as is the case in our general mortgage.

653 \$300,000 treasury bonds for equipment, additional terminals and improvements is a very small sum. When the road is ballasted it will eat up a good part of it. To be sure it does not need ballasting now, but when you are making a long mortgage you have to look into the future, and as in the case of the bonds issued for extensions, you can protect the owners of the property by the proviso that bonds shall only be issued for actual cost. However, I will leave the matter for Mr. Bond to settle with our Executive Committee, and will then advise you.

I understand you are negotiating with the Iowa Central to let them in on the Des Moines terminal. I do not see how they can be of any advantage to your road. The Terminal Company can get a little revenue out of them, but to my mind the D. M. N. & W. will lose two dollars for every dollar they may get from them. You will be simply introducing another competitor.

Yours truly,

(Signed) ROSWELL MILLER,  
President.

How do you make up the amount of your new mtgs?

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**Defendants' Exhibit 319.****Chicago, Milwaukee & St. Paul Railway Co.**

Office of the President.

Roswell Miller,  
President.

Chicago, Nov. 26th, 1894.

F. M. Hubbell, Esq.,  
President D. M. N. & W. Ry Co.  
Des Moines, Iowa.

Dear Sir:—

I am this morning in receipt of letter from Mr. Bond, from which I quote the following relative to the views of the Executive Committee:

"At our Executive Committee meeting yesterday your letter of the 13th with reference to the Des Moines, Northern & Western Ry. Co. foreclosure, and the importance of providing in the new mortgage for an issue of bonds for additional road and improvements, was submitted, and it seemed to the Committee quite important that the new mortgage should provide for such further issue. It would seem that the holders of the present bonds would be amply protected, for if our company obtain control, it is not probable that we should overload the new company, and doubtless, eventually the whole property would be brought in as a part of the St. Paul property."

I think you are perfectly safe in making a liberal provision for extensions and for improvements so long as issue is limited to actual cost.

Yours truly,

ROSWELL MILLER,  
President.**Defendants' Exhibit 320.****Chicago, Milwaukee & St. Paul Railway Co.**

Office of the President.

Roswell Miller,  
President.

Chicago, November 31st, 1894.

F. M. Hubbell, Esq.,  
President D. M. N. & W. Ry Co.  
Des Moines, Iowa.

Dear Sir:—

I hand you herewith letter just received from Mr. Bond, which please note and return. I should be glad to have you

consider it as transmitted to you personally and not show it to your associates.

I will give you further information after Mr. Bond has succeeded in getting the members of the committee together.

Yours truly,

ROSWELL MILLER,  
President.

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**Defendants' Exhibit 321.**

New York, 19 Nov. 1894.

D. M. N. & W. Ry.,

Roswell Miller, Esq.,  
President.

Dear Sir:—

I am in receipt of your letter of the 13th with other papers relating to the foreclosure of the original Des Moines, Northern & Western Ry. mortgage, and a new issue of bonds carrying 4% interest to the extent of \$2,930,000 upon the present 150 miles of completed and equipped main track; and I note your inquiry as to whether in our opinion the new mortgage should provide for further issue of bonds for extensions. Also your calling attention to the last clause of the purchasing committee's agreement whereby the provisions previous existing for bonds Nos. 1 to 650 entitling such holders to six per cent of the gross earnings until January 1, 1897. The papers would have been presented to our committee on Thursday last; but no committee meeting was held as that was the day set for the funeral of Mr. J. Hood Wright. As I understand the matter the old mortgage now being foreclosed provided for an issue of bonds to the extent of \$18,500. per mile of road. The new mortgage proposes to increase this mileage amount to nearly \$20,000. per mile. (\$2,930,000 upon 150 miles). And a copy of the new bond provides that \$8,000 per mile additionally only may be issued for completed and equipped main track hereafter acquired by construction or purchase. There is nothing in the mortgage, as suggested in your letter providing for an  
657 issue of bonds for improvements. Without having an opportunity of consulting our committee, it seems to me that the new mortgage should make provision in amount equal to the old mortgage for additional road that may be purchased or acquired; also a reasonable amount for improvements. As I understand it was originally contemplated to extend the Boone line into Hamilton and Webster counties to coal properties somewhere in the vicinity of Fort Dodge. If

our company should hereafter acquire control of this property leaving a considerable minority in the stock outstanding, we should, of course, have to finance any extensions and improvement expenditures; and it would be hardly possible to do this without some provision should be made in the mortgage for the cost of such additional road and improvements.

I note your second letter of same date, as to Mr. Hubbell's suggestion that you should acquire an interest in the stock of the Des Moines, Northern & Western Co. It seems to me that your impressions are correct; that while there may be some money in it, it might be objectionable in case, as is very probable, negotiations affecting stockholding interests between the two companies should hereafter be necessary.

I will not return the papers as you request by this mail, as I hope within a day or two to get together some members of our committee long enough to read them with your letters and mine; and when I do I will advise you as to any expression of opinion they may make.

Yours truly,

FRANK S. BOND,  
Vice-President.

658

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**Defendants' Exhibit 322.**

November 22, 1894.

Mr. Roswell Miller,

President Chic. M. & St. P. Ry Co.,  
Chicago, Ill.

Dear Sir:—

I have yours of the 21st inst. enclosing letter of Frank S. Bond, Vice President, dated November 19th, which I now return herein to you.

I wrote to you on the 20th inst. stating General Dodge's views on this matter, and I hope that you can coincide with the General as to the \$10,000. per mile for extensions, and \$300,000. treasury bonds for equipment, additional terminals, etc. These figures are satisfactory to me, and I shall be pleased if they also meet with your approval.

Hoping to hear from you soon, I am,

Yours truly,

(Signed) F. M. HUBBELL,  
President.

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THE DES MOINES UNION RY. CO., ET AL.

**Defendants' Exhibit 322a.**

**The Wabash Railroad Company.**

Office.

Chas. M. Hays, Vice-Prest.  
& Gen'l. Manager.

St. Louis, Mo. Feb. 22, 1895.

Mr. F. M. Hubbell,  
Prest. Des Moines Union Ry.,  
Des Moines, Iowa.

Dear Sir:—

Enclosed herewith please find certificate No. 6 for one share of Des Moines Union Railway Company stock in the name of James F. How, which please have transferred to H. L. Magee, qualifying him as a director, and return same to me.

Referring to the matter of sale of \$25,000 Des Moines Union Ry. Bonds, I have as you requested, made some inquiry of two or three of our trust companies here, and find that at the present time there is no opportunity to dispose of any of them. There seems to be a disposition to confine investments to home securities.

Did you hear from General Dodge, relative to the three bonds that were to be issued us in settlement for the trucks?

Yours truly,

CHARLES M. HAYS,  
Vice-Prest. & Genl. Mgr.

660

**Defendants' Exhibit 322b.**

**The Wabash Railroad Company.**

Office.

Chas. M. Hays, Vice-Prest. & Genl. Manager.

St. Louis, Mo. Feb. 25th, 1895.

Mr. F. M. Hubbell,  
Secretary, Des Moines Union Ry.  
Des Moines, Iowa.

Dear Sir:—

I have yours of Feb. 23rd, enclosing Des Moines Union stock certificate No. 27 for one share of stock transferred to Mr. H. L. Magee, qualifying him as a director in the Des Moines Union Company, and also note that General Dodge has authorized you to transfer from his block of bonds to be issued by the new company, three bonds of the Des Moines

Northern & Western Railway in settlement of our claim against that company.

Yours truly,

CHARLES M. HAY8,  
Vice-Prest. & Genl. Mngt.

661

### Defendants' Exhibit 323.

Des Moines, Iowa, Feb. 1, 1895.

Roswell Miller, Pres.,  
C. M. & St. P. Ry. Co.,  
Chicago, Ill.

Dear Sir:—

The foreclosure of the Des Moines, Northern & Western Railway Company mortgage is now complete, and the title of the property is in G. M. Dodge, F. M. Hubbell and F. C. Hubbell as Purchasing Committee of the bondholders. The new Company, called Des Moines, Northern & Western Railroad Company, has been organized. The articles of incorporation provide, among other things, that the capital stock shall be \$8,000,000, divided into shares of the par value of \$100 each. They further provide that the consideration to be paid for the railway property shall be \$2,915,000 of the first mortgage bonds of the company, and \$4,372,500 of its capital stock; the stock issued being 50% in excess of the bonded indebtedness as required by law.

The new company will of course assume the current obligations of the old company, and receive its current income. All that remains to be done is the execution of the mortgage, and the issuance of the bonds and stock. The members of the Purchasing Committee, as well as the representatives that your company is to have upon the Board, have been omitted from the Board of Directors as named in the articles of incorporation, for the reason that it was necessary to have persons who were here to execute the articles, and it was thought best not to have any member of the Purchasing Committee upon the Board until after the transfer is made. We intend to at once hold a meeting of the Board, authorize the purchase of the property from the Purchasing Committee for the consideration above named, and then re-adjust the Board in accordance with our agreement with you; that is to say, three of the persons named in the articles will resign, and there will be elected in their stead the persons whom you desire on the Board. The new Board as thus changed will then authorize the execution of the mortgage and the issuance of the bonds to the amount of \$2,915,000, to be delivered to the Purchasing Committee for the purpose of being substituted for the bonds of the old company, with their accompa-

lated interest. It will also authorize the issuance to the Purchasing Committee of stock to the amount of \$4,372,500 for the distribution by the committee as provided in the Purchasing Committee's agreement. This meeting of the Board should be held at the earliest possible moment, and I suggest Tuesday, the 5th day of March, as the time for holding the meeting, inasmuch as it is of great importance to us to get the bonds out and in the hands of the persons entitled to them as soon as we can do so. I would be very glad if you would see that the three persons who are to represent your Company on the Board are present on that day. In any event you will please indicate to me the names of the Directors you want, and if I do not hear from you I shall take it for granted that the three representatives now on the Board of the old company are to be put on the Board of the new company.

Yours very truly,

(Signed) F. M. HUBBELL.

663

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**Defendants' Exhibit 323a.**  
**The Wabash Railroad Company.**

Office.

Chas. M. Hays, Vice-Prest. & Genl. Manager.

On Road, April 22nd, 1895.

Mr. F. C. Hubbell,  
 Prest. Des Moines Un. Ry.  
 Des Moines, Iowa.

Dear Sir:—

Replying to yours of April 18th, relative to the proposed erection of building for the Pratt Grocery Company on the Heath lot belonging to the Des Moines Union Railway.

I suggest that the firm of F. M. Hubbell & Son, buy the lot from the Des Moines Union Ry. and then make their arrangements for the erection of the building. It does not seem to me it should be the policy of the Des Moines Un. Ry. to purchase property simply for the purpose of locating thereon free of rental, warehouses or industries of any kind, and if as you say, the lot is at one side and will never be needed for tracks, that is all the more reason for our selling it and relieving the

tenant companies of the Des Moines Union Ry. to that extent, of the interest charge on the property.

Yours truly,

CHARLES M. HAYS,  
Vice-President, & Genl. Mgr.

664

**Defendants' Exhibit 324.**

**Chicago, Milwaukee & St. Paul Railway Co.**

Office of the President.

Chicago, May 14th, 1895.

Dear Sir:—

Please send me another printed copy of the record of re-organization.

I should also be glad to have reports of your earnings and expenses from time to time as they may be made up.

Yours truly,

(Signed) ROSWELL MILLER, President.

F. M. Hubbell, Esq.,

President D. M. N. & W. R. R. Co.,  
Des Moines, Iowa.

665

**Defendants' Exhibit 325.**

**Chicago, Milwaukee & St. Paul Railway Co.**

Office of the President.

Roswell Miller, President.

Chicago, May 16th, 1895.

Frederick M. Hubbell, Esq.,

and Messrs. Frederick M. Hubbell & Son,  
Des Moines, Iowa.

Dear Sirs:—

As Trustee under the contract between yourselves and the Chicago, Milwaukee & St. Paul Railway Company, dated March 15th, 1894, and in accordance with Section 7 of said contract, I hereby return to you 23,268 shares of the capital stock of the Des Moines, Northern & Western Railway Company deposited by you with me as Trustee, viz.:

Certificate	No.	24, 3360	Shares;
"	"	25, 3360	"
"	"	26, 3360	"
"	"	27, 3360	"
"	"	28, 3360	"
"	"	29, 6468	"

and I have received from you in lieu thereof 24,224 shares of the capital stock of the Des Moines, Northern & Western Railroad Company, to be held by me as Trustee for the purposes stated in said contract, viz:

Certificate	No.	2, 3498	Shares.
"	"	3, 3498	"
"	"	4, 3498	"
"	"	5, 3498	"
"	"	6, 3498	"
"	"	8, 6734	"

606 As authorized and directed by the terms of said contract, I have delivered to the Chicago, Milwaukee & St. Paul Railway Company certificate No. 2, 3498 shares of the capital stock of the Des Moines, Northern & Western Railroad Company, being a part of the 24,224 shares above referred to— which 3498 shares are due to the Chicago, Milwaukee & St. Paul Railway Company by virtue of said contract.

Please acknowledge receipt of this notice and approve my action as stated therein.

Yours truly,

(Signed) ROSWELL MILLER.

607

### Defendants' Exhibit 326.

Chicago, Illinois, May 16th, 1895.

Received of Frederick M. Hubbell and Frederick M. Hubbell & Son the following certificates of stock in the Des Moines, Northern & Western Railroad Company, viz:

Number of Certificate	Date	To Whom Issued	No. Shares	Par Value
3	March 3, 1895.	Roswell Miller, Trustee.	3498	\$ 349,800
4	March 3, 1895.	" " "	3498	349,800
5	March 3, 1895.	" " "	3498	349,800
6	March 3, 1895.	" " "	3498	349,800
8	March 3, 1895.	" " "	6734	673,400
			20726	\$2,072,600

To be held by me in trust, and used, voted and disposed of from time to time, as set out, directed and agreed upon in the contract made between Frederick M. Hubbell and Frederick M. Hubbell & Son, parties of the first part, and the Chicago, Milwaukee & St. Paul Railway Company, party of the second part, and Roswell Miller, party of the third part, dated March 15th, 1894, to which reference is hereby made.

(Signed) ROSWELL MILLER

668

**Defendants' Exhibit 327.**

May 1st, 1895.

Mr. Chas. M. Hays,  
Vice Presd. Wabash R. R. Co.,  
St. Louis, Mo.

Dear Sir,—

Referring to attached would advise the Carbondale Coal Company are now in bankruptcy but in the process of re-organization with prospect of interesting very considerable capital. They ask us to make an answer to attached letter. Possibly they will use the letter as an inducement to capitalists to take their new stock and possibly might show the letter to the C. R. I. & P. Road in order to make a better trade with them. However, we think enough of the scheme to wish to know your views. The Carbondale people had figured on building a line from their mines to connect in Des Moines with other lines. It occurred to us that the Wabash might be willing to sell to the D. M. Union the west three miles of its main line into Des Moines; thus enabling the D. M. U. to reach the Carbondale Company's land and connection with their tracks could be made at little expense. Should this be brought about, it seems to us that all the D. M. Union paid the Wabash for Wabash tracks would be almost clear gain as D. M. U. would maintain the three miles which the Wabash now has to maintain. If D. M. U. is enabled to reach the Carbondale plant and handle their switching, would it be acceptable to you to count cars going to C. G. W. and D. M. & W. on wheelage basis and cars going to C. & N. W. as switched cars at rate of \$3.00 per car?

Yours truly,

(Signed) F. C. HUBBELL, Presd.

## Defendants' Exhibit 328.

## The Wabash Railroad Company.

Office

Chas. M. Hays, Vice Pres't &amp; Gen'l Manager.

St. Louis, Mo., May 7th, 1905.

Mr. F. C. Hubbell,

Pres't, Des Moines U'n. Ry.

Des Moines, Iowa.

Dear Sir:—

Your favor of May 1st, with letter and blue print from R. E. Sears of the Carbondale Coal Co. received, and the letter is herewith returned.

As I wired you last night, the Wabash does not care to sell any portion of their main line to the Des Moines Union Ry. although we would be willing to either divide with that Company on fair terms, any switching rate which might be necessary to make to meet the competition of other lines reaching the track of the coal company; or we would lease to the Des Moines Union Ry. on a fair rental, the right of use of the three miles of Wabash main track referred to.

So far as rates for performing this service are concerned, I would say to them we would make the same switching rate as made by our competitors, and that the rate would be "per car" and not "per ton."

In regard to their supplying the Des Moines Union with coal, I would advise them they would have an opportunity with other coal companies, to bid for our coal supply.

Yours truly,

(Signed) CHAS. M. HAYS,  
Vice Pr. & Genl. Mgr.

600

## Defendants' Exhibit 329.

May 10, 1905.

Mr. Chas. M. Hays,

Vice Pres't, Wabash R. R. Co.,

St. Louis, Mo.

Dear Sir:—

Replying to yours of the 7th with respect to Carbondale track, we regret that your Company is not willing to sell three and one-half miles of your line adjoining the D. M. Union. However, your suggestion that we pay rental for the same is satisfactory, provided the rental charge is made low

enough to warrant the handling of coal business over the same. We would like to have the lease as permanent as possible, say ten years, and the rental based on the number of cars passing over your tracks. From the nature of this coal business, it means that there will be as many empties go eastward as there are loads westward so that one-half of the cars will be empties. The D. M. Union will have to make such a rate as will prevent the Carbondale people from building their own track. They are a strong company and it was their first intention to build their own independent line to Des Moines to connect with the various lines here. In the event that you do not feel like making a low enough rental charge for Carbondale people to pay, would you consider the question of selling a strip of ground off the north side of your right-of-way for three and one-half miles and allowing the Carbondale people to construct a line on the same?

I have an appointment with these people Tuesday morning and would be obliged to have a full answer from you at 671 that time, if possible.

Yours truly,

(Signed) F. C. HUBBELL,  
Pres.

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**Defendants' Exhibit 330.**

Telegram.

From	St. Louis 5/13 1895	Filed	5.58 p. m.
To	F. C. Hubbell	At	

Referring to your letter of May 10th. We will make you trackage charge of one dollar per loaded car and fifty cent per empty when handled with Des Moines Union engines between the mine of Carbondale Co. near Des Moines and the Des Moines Union track. We would not want to make this agreement for any long period of time but subject to notice by either party of desire to terminate, we would not want to sell strip of ground off of our north right of way for the Carbondale people to construct their own line.

CHAS. M. HAYS.

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**Defendants' Exhibit 331.**  
**The Wabash Railroad Company.**

Office  
Chas. M. Hays, Vice Pres't & Gen'l Manager.

On Road May 14th, 1895.  
St. Louis, Mo.

Mr. F. C. Hubbell,  
Pres't. Des Moines Union Ry.  
Des Moines, Iowa.

Dear Sir:

Your favor of May 10th, relative to the use of the three and one-half miles of our line adjoining the Des Moines Union Ry. to reach the Carbondale Coal Company's plant, received. A rental based on the car trackage rate for the use of this track when cars are handled by the Des Moines Union engines, will be most satisfactory to us. I accordingly wired you last night that we would make an agreement covering the desired use of the track on the basis of \$1.00 per loaded cars and 50 cents per empties when handled by Des Moines Union engines.

This is about as low as I feel we could permit the use of the track, and while I would be willing to make the arrangement for one or two years, subject to a sixty days notice on the part of either party of a desire to terminate, I would not care to make it of any more permanent a character than that, on the terms named.

If these figures are satisfactory and the arrangement is concluded, we will have it put in the form of a regular agreement for execution by our respective companies.

As I wired you, we would not want to sell a strip along the North side of our right of way.

Yours truly,

(Signed) CHAS. M. HAYS, V. P. & G. M.

674

**Defendants' Exhibit 331a.**

Telegram.

New York, May 17, 1895.

F. M. Hubbell.

I want to see if I cannot negotiate our Des Moines terminal bonds with a London Banking house and have already taken the initiative. Will you and General Dodge join with us to the full amount of your bonds? If I can sell to net us ninety and accrued interest we shall be satisfied with this price. If you will join give me the amount of bonds, held by you and

General Dodge, and also send printed copy of lease and map showing location of property. Answer.

O. D. ASHLEY.

675

**Defendants' Exhibit 331b.**

Office of  
The Wabash Railroad Company.  
195 Broadway.

New York, May 17, 1895.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:—

I sent you a dispatch this morning asking if you would join us in making a sale of the block of Des Moines Union R'y Co. Bonds held by General Dodge, yourself and the Wabash. I have had a talk this morning with a member of a prominent London banking house, and if I can get bonds enough I think there is a fair chance to get 90 and accrued interest, net, to us. But success depends somewhat, I think, upon the amount of bonds we can control.

J. H. Davis & Co. of this city advertise in their circular these bonds for sale at 95 and interest, and I thought they were acting for you. I called upon them this morning and inferred that while they had some bonds for sale they were not yours. At all events, I want to see if I can unite an amount sufficient to tempt the London bankers. If I can do so it will open the way also to a sale of the bonds in the treasury, when we wish to dispose of them. There have been sales lately of terminal bonds in another city at a price considerably lower than these, but they are not strictly a first mortgage and I have, therefore, claimed that these bonds were of a higher rank.

676 Will you be good enough also, whether you consent to unite with us or not, to send me a description of the property covered by the mortgage, amount of land and cost, and also an estimate of its present value according to recent land sales in Des Moines, adding also such information as you think would be useful to any one desiring to purchase the bonds. I have represented that this property being in the center of the city with its track running through the heart of it and costing only the amount of bonds outstanding, is worth very much more than the amount of that mortgage.

Please reply promptly, and oblige,

Yours truly,

O. D. ASHLEY.  
President.

677

**Defendants' Exhibit 331c.**

Office of  
The Wabash Railroad Company.  
195 Broadway.

New York, May 29, 1895.

General G. M. Dodge,  
#1 Broadway,  
N. Y. City.

Dear Sir:—

I have your letter of the 25th inst. I think the Des Moines Terminal Bonds ought to be listed on the New York Stock Exchange at once, but the application must be made by the proper officers of the Company. I think Mr. Davis knows where some of the bonds, which have been sold, are located, and Mr. Hubbell can probably indicate where the rest may be found, as he has sold most of his own.

Yours truly,

O. D. ASHLEY,  
President.

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**Defendants' Exhibit 331d.**

Office of  
The Wabash Railroad Company  
195 Broadway.

New York, June 4, 1895.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:—

I received your letter of May 20th in due course and thank you for the information contained therein.

General Dodge in reply to my letter says that he intends to hold the bonds he owns as an investment, and therefore he does not wish to sell. I am afraid I cannot furnish an amount of bonds sufficient to tempt foreign buyers, but they have the matter now under consideration. General Dodge wants to have the bonds listed and I suggest that you take the necessary steps for the officers of the company to make the application at the Stock Exchange. Any assistance I can render in the matter you can depend upon; but I hope the application will be made soon as the listing of the securities will give them a marketable value at once.

I hope your negotiations with the C. & Northwestern will be successful. If we could get that company, or the St. Paul Road, to use our terminals, we could at once erect a handsome union station and all parties would be benefitted.

Now that you have as I understand disposed of your interests in the D. M. Northern & Western property to the St. Paul, will you not turn your attention to the Des Moines & St. Louis Road with the view of making some trade for that property? I think you might manage is so as to make it pay you for the trouble.

Yours truly,

O. D. ASHLEY.

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**Defendants' Exhibit 332.**

**The Wabash Railroad Company.**

Office

Chas. M. Hays, Vice Pres't & Gen'l Manager.

St. Louis, Mo. July 6th, 1895.

Mr. F. C. Hubbell,

Prest. Des Moines Un. Ry.

Des Moines, Iowa.

Dear Sir:—

I have yours of July 5th, stating that the Des Moines Union shop is so old it will stand no longer and should be rebuilt this Summer, and recommending that it be rebuilt with brick.

Before we decide to take this action, please have estimate made and advise me as to what it would cost to rebuild with brick? Should we ultimately decide on this, the cost over and above what it would cost to renew it with a building of similar character and material as at present, should be covered by the issue of Des Moines Union bonds. In fact we would not want to advance any money for this purpose, and would therefore suggest that the construction of the building be deferred until we can provide the money by the sale of bonds.

Yours truly,

(Signed) CHAS. M. HAYS,  
Vice Pres't. & Gen. Mngr.

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**Defendants' Exhibit 333.**

**The Wabash Railroad Company.**

Office

Chas. M. Hays, Vice Pres't & Gen'l Manager.

St. Louis Mo. Aug. 1st, 1895.

Mr. F. C. Hubbell,

Prest. Des Moines Un. Ry.

Des Moines, Iowa.

Dear Sir:—

I have yours of July 31st, relative to negotiations with the Carbondale Coal Company for the handling of their business.

via. the Des Moines Un. Ry. and note your proposition to them that they should convey to the Des Moines Union all the tracks they now have, carrying with it the right on the part of the Des Moines Union to break the connection the coal company now has with the C. R. I. & P. Ry., also requiring the coal company to pay the cost of building the new track connecting the coal company's tracks with the Wabash, and the extension of track from their present shaft to the new shaft.

I expect the Des Moines Union could, in consideration of these undertakings on the part of the coal company, afford to consent to switch their coal from mines to Des Moines at 15 cents per ton.

I do not think the rate of car trackage I named you in my letter of May 14th, for the use of our track between the connection with the coal company and Des Moines Union tracks, viz. \$1.00 per loaded car and fifty cents per empty, is an excessive price. We might, however, agree that 681 when the business developed to a volume in excess of an average of twenty loads handled per day, it should be on the basis of seventy-five cents per loaded car and forty cents per empties when handled by Des Moines Union engines.

Yours truly,

(Signed) CHAS. M. HAYS,  
Vice Prest. & Genl. Mgr.

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**Defendants' Exhibit 334.**

August 20, 1895.

Mr. Chas. M. Hays,  
Vice Prest. Wabash R. R. Co.  
St. Louis, Mo.

Dear Sir:—

Years ago when the Des Moines yard was laid out, the main track in the west yard was laid so far south as to encroach on the C. R. I. & P. right-of-way. There is no good way to change this, because in moving one track north we would have to move twenty.

I have had an intimation from the C. R. I. & P. people that they would consent to sell the D. M. Union that part of their right-of-way now occupied by our tracks. The amount of ground required for this is about equal to three regular sized lots in Des Moines. I think the price which the C. R. I. & P. will ask will not be exorbitant.

Have I your authority to purchase this extra right-of-way providing the price is reasonable?

Yours truly,

(Signed) F. C. HUBBELL,  
Pres.

**Defendants' Exhibit 335.**

**The Wabash Railroad Company.**

Office

Chas. M. Hays, Vice Pres't & Gen'l Manager.

St. Louis, Mo. August 21st, 1895.

Mr. F. C. Hubbell,

Pres't. Des Moines Un. Ry.

Des Moines, Iowa.

Dear Sir:—

Replying to yours of August 20th, relative to encroachment by main tracks of the Des Moines Union in West Yard upon the C. R. I. & P. right of way, and proposition to purchase such right of way from the C. R. I. & P. Ry. Co.

Please ascertain from them what they will consent to sell the property for, and advise.

Would like to know how much is involved before consenting to the purchase.

Yours truly,

(Signed) CHAS. M. HAYS,  
Vice Pres't. & Gen'l. Mngr.

**Defendants' Exhibit 336.**

August 24, 1895.

Mr. Chas. M. Hays,

Vice Pres't. Wabash R. R. Co.,

St. Louis, Mo.

Dear Sir:—

Herewith I hand you proposed trackage contract somewhat modified by Mr. Cummins. There is only one point which is material as relating to the contract, i. e. three years duration instead of one. In order to induce the Carbondale people to build this expensive track, they feel they must have a contract for a period of three years in any event. I trust you will consent to this, as the Carbondale people will not go

on with the trade unless they feel certain of a three year contract.

Contract is also modified allowing the D. M. Union to switch brick and other freight originating on the line of the Carbondale Co. The Carbondale people are growing very anxious to have work commenced on this and I trust we may arrive at an understanding at a very early date.

Yours truly,

(Signed) F. C. HUBBELL,  
Pres't.

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**Defendants' Exhibit 337.**

The Wabash Railroad Company.

Office

Chas. M. Hays, Vice Pres't & Gen'l Manager.

St. Louis, Mo., August 29th, 1895.

Mr. F. C. Hubbell,

Pres't, Des Moines Un. Ry.  
Des Moines, Iowa.

Dear Sir:—

Replying to yours of August 24th.

I herewith enclose proposed trackage contract between the Des Moines Union and the Wabash, providing for three years duration instead of one, and further amended in one or two other particulars.

Please advise if now satisfactory, and if so, fill in the blanks and execute and return to me when I will execute same and forward one copy to you.

Yours truly,

(Signed) CHAS. M. HAYS,  
Vice Pres't. & Gen'l. Mngr.

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**Defendants' Exhibit 338.**

Memorandum Of Agreement, made and entered into this 31st day of August A. D. 1895, by and between the Wabash Railroad Company, party of the first part, and the Des Moines Union Railway Company, party of the second part,

Witnesseth:

Whereas, the party of the second part, in order to reach the tracks of the Carbondale Coal Company located immediately East of the City of Des Moines, Iowa, desires the use of the

main track of said Wabash Company extending from the point of connection with the track of the said Union Company, to the point of connection with the said switch tracks of the said Carbondale Coal Company, a distance of . . . . .tailes, for the handling of coal from the mines of said Coal Company.

Now, Therefore, in consideration of the covenants and stipulations hereinafter set forth, the parties hereto agree, each with the other, as follows:

First: The Wabash Company hereby grants unto the said Union Company the right to use the said main tracks and appurtenances, for the purpose of moving loaded and empty cars to and from the mines and tracks of said Coal Company with its own engines and crews.

Second: The said Union Company agrees to pay to the said Wabash Company, and the said Wabash Company agrees to accept in full payment, for the use of said track, the sum of One Dollar for each loaded car, and fifty cents for each empty car transported over said track by the motive power of said second party. Should the number of loaded cars moved over

said track by the said Union Company during any 687 month, reach an average of twenty cars per working day, then the said Wabash Company will and hereby agrees to charge for such track service a rate of seventy-five cents per loaded car and forty cents per empty car, for all the cars so transported over said track during said month, which charge the second party agrees to pay.

Third: That the second party will pay all mileage which may be charged for cars moved over said track by its engines and crews, and will reimburse said first party for any and all payments of money that it may be required to make on this account.

Fourth: It is further understood and agreed between the parties hereto that this contract governs only the business which the said Union Company proposes to move to and from the said switch tracks of the said Coal Company, and no other.

Fifth: All property transported by the Union Company over the tracks of the said Wabash Company, shall be at the risk of the Union Company. The said Union Company assumes all risk and responsibility for damage or injury to persons or property transported or owned by it growing out of or caused by any imperfection of said tracks and appurtenances, or misplacements of switches or for any damage to stock or injury that may occur to persons while walking on the said track by being struck by trains of said second party, as well

as all risks of damage or injury to persons or property growing out of or caused by fire set out by the locomotives of the said Union Company, or for any other damage that may arise from the movement of the trains handled by the Union Company.

688 In cases of damages or injuries to persons or property occurring on the trains of either party while on the said track, the proper officer of the said Wabash Company shall adjust and settle same, and a release shall be made to both companies, providing that the said Wabash Company shall not make any settlement of a claim which the Union Company is to pay under the provisions hereof without consultation with the proper officer of the said Union Company.

The said Union Company promises and agrees to protect and save harmless the said Wabash Company against any claims or demands on account of injuries to persons or property transported by it and also against any claims or demands on account of any injuries to any employee of the Union Company, and promises to repay the Wabash Company, any sums which it may be required to disburse because of such claims. It will also pay to the said Wabash Company full compensation for any injury to persons or property for which the said Wabash Company may be held liable by reason of the negligence or want of care or caution of the servants or employees of the Union Company, or by reason of the use by the Union Company of defective machinery or appliances. Provided, however, that any damage arising from the carelessness of the sole employees of the Wabash Company, shall be paid by the Wabash Company.

When any injury or damage to persons or property shall be caused by the operation of trains over the track hereinbefore described, and it cannot be determined which party is responsible therefor, the cause shall be regarded as concealed, and the compensation made to the party injured shall 689 be apportioned to and paid by the parties hereto in equal parts.

Sixth: This contract to remain in full force and effect so long as the Union Railway desires to move freight from and to said switch; provided, however, that it may be terminated at any time after three years from the date hereof by either party giving the other thirty days written notice to that effect.

Seventh: That all questions arising under this agreement which cannot be amicably adjusted by the proper officers of

the parties hereto, shall be finally settled by arbitration, as is customary between railroad companies.

In Witness Whereof, the parties hereto have caused these presents to be signed by their duly authorized officers the day and year first above written.

Witness:

R. B. Logan,

THE WARASH RAILROAD  
COMPANY,

By Chas. M. Hays,

Vice Presd. & Genl Manager.

(Seal)

THE DES MOINES UNION RY.  
COMPANY,

By F. C. Hubbell, President.

Witness: Attest:

F. M. Hubbell, Secy.

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### Defendants' Exhibit 339.

January 22, 1895.

Mr. Roswell Miller, President,  
Chicago, Ill.

Dear Sir:—

I have yours of the 21st inst. In reply will say the reorganization would have been completed some time ago had it not been for the fact that Mr. Solon Humphreys owned 15 bonds which he had deposited as collateral for a loan in Hartford. The owner of the loan died, and Mr. H. had considerable difficulty in getting his bonds deposited with the Metropolitan Trust Company for exchange. However, I received a dispatch yesterday from General Dodge's secretary, Mr. J. T. Granger, stating that Mr. Humphreys' 15 bonds had been deposited with the Metropolitan Trust Company. As soon as I hear from the Trust Company that it has the bonds, with authority to make the exchange, the sale will be confirmed by the court, and the Company reorganized.

The securities, however, cannot be exchanged until the bonds are printed. The New York Bank Note Company is printing the bonds and while it is agreed to deliver the bonds to us in six weeks from the time the proof was furnished, it now insists on taking 12 weeks to do the work. We are informed by the Bank Note Company that the engraving is finished and that the bonds are now being printed, but that the printing will not be finished until about the first of March.

I think I can assure you that early in the month of March the reorganization will be completed, every bond of the old Company will have been exchanged, every share of stock taken in and cancelled, and stock in the New Company issued in lieu thereof.

The sale of the road occurred about the 15th of December, and was bid off by the Purchasing Committee,—General Dodge, F. M. Hubbell and F. C. Hubbell.

Yours truly,

(Signed) F. M. HUBBELL.

### Defendants' Exhibit 340.

### Chicago, Milwaukee & St. Paul Railway Co.

Office of the President.

Roswell Miller,  
President.

Chicago, March 6th, 1895.

F. M. Hubbell, Esq.,  
President D. M. N. & W. R. R. Co.,  
Des Moines, Iowa.

Dear Sir:—

I have yours of the 1st instant.

I was absent when the letter came, therefore I could not arrange to have our Company represented at the meeting on the 5th of March. The three representatives on the old Board would be designated by us for the new Board.

When the organization is perfected, please send to us certified copies of the following documents for our files: (1) decree of foreclosure and sale; (2) notice of sale; (3) confirmation of sale; (4) Master's or sheriff's deed conveying the property to the purchasing committee; (5) articles of incorporation of new Company; (6) proceedings of incorporators forming new Company; (7) conveyance by purchasing committee of (to) new Company; (8) proceedings of new Company in accepting the deed, making new mortgage, changing Board of Directors, etc.; (9) copy of new mortgage.

I suggest that after the stock is distributed the new mortgage should be ratified at the stockholders' meeting.

Yours truly,

(Signed) ROSWELL MILLER.

May 11, 1905.

Mr. Roswell Miller,  
Pres't. C. M. & St. P. Ry. Co.,  
Chicago, Ill.

Dear Sir:—

As requested in your letter of March 6th, I now enclose certified copy of the following documents for your files, viz:

- 1st. Decree of Foreclosure and Sale.
- 2nd. Notice of Sale.
- 3rd. Confirmation of Sale.
- 4th. Master's Deed conveying property to Purchasing Committee.
- 5th. Articles of Incorporation of New Company.
- 6th. Proceedings of Incorporators forming New Company.
- 7th. Conveyance by Purchasing Committee to New Company.
- 8th. Proceedings of New Company in accepting Deed, Making New Mortgage, etc.
- 9th. Copy of New Mortgage.

This printed pamphlet does not contain that part of the record wherein the three Directors resigned and their places were filled by Messrs. E. P. Ripley, A. J. Earling and P. M. Myers. If you wish a certified copy of the action of the Board with reference to the election of these three Directors, I will send it to you. The Meeting of the Board of Directors was held March 5th, 1905.

Director J. P. Hewitt tendered his resignation which was accepted and Mr. E. P. Ripley was elected Director in his stead. Thereupon Director Carroll Wright tendered his resignation as Director, which was accepted, and Mr. A. J. Earling was elected Director in his stead. Thereupon Director A. N. Denman tendered his resignation as Director, which was accepted, and Mr. P. M. Myers was elected Director in his stead.

I now enclose statement showing the amount of stock issued in the Des Moines, Northern & Western Railway Co. and the names of each stockholder. In the re-organization it became necessary, in order to comply with the Iowa Statute, that the amount of stock of the new Company should be \$4,372,500. I enclose statement showing the amount of stock and the owner.

ship in the new Company, being the Des Moines, Northern & Western Railroad Co. 40% of the whole amount of stock is equal to \$1,749,000. One-fifth of this amount is represented by 3498 shares which your Company has earned under its contract with F. M. Hubbell and F. M. Hubbell & Son, dated March 15th, 1894. I therefore now enclose you Certificate #2 for 3498 shares of stock issued to Roswell Miller, Trustee, and suggest that you endorse it for transfer,—one share each to Messrs. Ripley, Earling and Myers, and the residue (being 3495 shares) to your Company, or to any person you choose. Please date the transfer March 5th, 1895, and return it to me for the purpose of issuing new stock. I make this suggestion so that your three Directors shall each have one share of stock. You will find herewith enclosed the following certificates of stock, viz:

cc	Cert. #3 for.....	3498 shares
	Cert. #4 for.....	3498 shares
	Cert. #5 for.....	3498 shares
	Cert. #6 for.....	3498 shares
	Cert. #8 for.....	6734 shares

I have prepared and now enclose a form of receipt, using the same language as was used in the receipt signed by you as Trustee, dated July 21st, 1894, wherein you receipted to Frederick M. Hubbell and Frederick M. Hubbell & Son, for 2,268 shares of stock in the old Company. Will you please sign and return to me the enclosed blank receipt, together with all of the stock in the old Company, covered by your receipt dated the 21st of July last; and I will then forward you receipt for that stock.

Certificates #3, #4, #5 and #6 cover 32% of all of the stock of the new Company, and Certificate #8 covers 15.4% of the stock which your Company has an option to purchase.

Hoping you will find this all satisfactory, and that I shall hear from you very soon, I am,

Yours truly,

(Signed) F. M. HUBBELL,  
President.

**Defendants' Exhibit 342.****Chicago, Milwaukee & St. Paul Railway Co.**

Office of the President.

Roswell Miller,  
President.

Chicago, May 13th, 1895.

F. M. Hubbell, Esq.,  
President D. M. N. & W. R. R. Co.,  
Des Moines, Iowa.

Dear Sir:—

I have your favor of the 11th inst. with enclosures as stated, and will give the several matters attention.

I find by the record of sale of the D. M. N. & W. Ry that the amount found by the court to be due was:

Bonds outstanding .....	\$2,770,000.00
Coupons and interest thereon .....	121,060.98
Total .....	\$2,891,060.98

Sale was made for \$2,840,000. The court in approving sale announced the deficit \$79,971.59. You issued in payment to the purchasing committee \$2,915,000 first mortgage bonds—leaving a difference of \$4,971.59 between this amount and the judgment. How was this provided for?

The new issue of stock is \$4,372,500; the old issue was \$4,200,000. What items does the increased issue represent?

I suppose you will get from the Trust Company a satisfaction of the old mortgage or a certificate of cancellation of bonds by the Commissioner, for the public records.

Yours truly,

(Signed) ROSWELL MILLER.

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**Defendants' Exhibit 343.**

**Chicago, Milwaukee & St. Paul Railway Co.**

Secretary's Office;

Subject:

D. M. N. & W. Stock.

P. M. Myers,  
Secretary. M-G.

Milwaukee, May 18, 1895.

Mr. F. M. Hubbell,  
President, &c., Des Moines.

Dear Sir:—

Yours of the 16th is received, enclosing the following certificates of Des Moines, Northern & Western Railroad Company Stock, viz:

No. 19:	E. P. Ripley .....	1 share.
" 20:	A. J. Earling .....	1 "
" 21:	P. M. Myers .....	1 "
" 22:	R. Miller, President in Trust ...	3495 "

for which please accept thanks.

Yours truly,

(Signed) P. M. MYERS,  
Secretary.

699

**Defendants' Exhibit 344.**

May 15, 1895

Mr. Roswell Miller,  
Pres. C. & St. P. Ry. Co.,  
Chicago, Ill.

Dear Sir:—

I have yours of the 13th inst. While it is true that the Court rendered a judgment for \$79,971.59, being the amount of the deficit, this amount is not collectible.

It was ascertained that \$2,915,000, would cover all that was due to the bondholders, together with all expenses of foreclosure, including interest to January 1st, 1895, on the bonded debt of the old Company.

On the 1st of January 1895 there was paid in cash \$13,000 being interest on bonds #1 to #650, both inclusive, by reason of which there was covered back into the treasury of this company, out of the \$2,915,000 of bonds, the amount of thirteen bonds, being bonds #2903 to #2915, both inclusive, so that the bonded debt of the Company is really \$2,902,000.

You ask about the difference of \$4,971.59 being the difference between the amount of the bid plus the amount of the judgment for deficit, as compared with \$2,915,000. In reply will say I think our attorney took a judgment against the old Company for \$4,971.59 more than it should have been, but as the judgment is of no value I suppose it makes no difference.

The occasion for the amount of new stock being \$4,372,500 comes about in this way. The bonded debt being \$2,700 915,000 the Laws of Iowa require that the stock shall be in amount 50% greater than the debt. If you add 50% to \$2,915,000, you will have \$4,372,500. Our contract with the C. M. & St. P. R'y. Co. under date of March 15th, 1894, provided that the capital stock of the new Company shall not exceed its mortgage indebtedness more than fifty per cent (50%) (See page 4 Paragraph 5 of Contract).

All of the bonds issued under the old mortgage have been surrendered to the Commissioner who has cancelled and deposited them with the Clerk of the United States Court at Des Moines.

The Metropolitan Trust Company did not certify the new bonds until the Clerk of the Court here gave that Company a certificate showing that all of the old bonds had been surrendered to him and cancelled.

If desired, we can procure an order of Court to have the old bonds destroyed by fire.

The old mortgage is effectually cancelled by the decree of the Court and surrender and cancellation of the bonds.

I have your favor of the 14th inst. and now send to you, under separate cover, three printed copies of the record of reorganization.

Within a day or two I will have a statement of earnings and expenses since January 1st, last, prepared and sent to you, and I will continue to forward you these statements as fast as they are made up.

Yours truly,

(Signed) F. M. HUBBELL, President.

THE DES MOINES UNION RY. CO., ET AL.

701

**Defendants' Exhibit 345.**

May 17, 1895.

Mr. Roswell Miller,  
Prest. C. M. & St. P. R'y. Co.,  
Chicago, Ill.

Dear Sir:—

We have your letter of the 16th inst. enclosing certificates of stock in the Des Moines, Northern & Western Railway Company as follows:—

#24 for.....	3360 shares
#25 for.....	3360 shares
#26 for.....	3360 shares
#27 for.....	3360 shares
#28 for.....	3360 shares
#29 for.....	6468 shares
<hr/>	
Total.....	23268 shares

We approve of the action you have taken with reference to Certificate #2 of the Des Moines, Northern & Western Railroad Company, for 3498 shares of stock, in delivering it to the Chicago, Milwaukee & St. Paul Railway Company.

I have received a receipt dated May 16th, 1895, signed by you, covering certificates Nos. 3, 4, 5, 6 and 8 dated March 5th, 1895, covering 20726 shares of stock of the Des Moines, N. & W. Railroad Company. I have cancelled and now return to you the receipt which you gave us dated July 21st, 1894, covering 23,268 shares of stock in the Des Moines, Northern & Western Railway Company.

Yours truly,

(Signed) FREDERICK M. HUBBELL,  
FREDERICK M. HUBBELL & SON.

702

**Defendants' Exhibit 346.**

**The Wabash Railroad Company.**

Office.

Chas. M. Hays, Vice Pres't & Gen'l Manager.

St. Louis Mo., Sep. 2nd, 1895.

Mr. F. C. Hubbell,

Pres't, D. M. U. Ry. Co., Des Moines,

Dear Sir:—

In accordance with your communication of the 31st, I have ~~executed~~ and return herewith contract with the Des Moines

Union Ry. governing the use of our track to the Carbondale Coal Company's mine.

Please advise me when you are ready to commence the use of our track, and I will then give necessary instructions putting the agreement into effect.

I have instructed our General Superintendent to have our Resident Engineer call upon you for the necessary information, so that he can make tracings showing the property covered by the agreement, and as soon as completed will send you one, to be attached to the enclosed contract.

Yours truly,

(Signed) CHAS. M. HAYS,  
Vice-Pres't & Gen'l. Mgr.

703

**Defendants' Exhibit 347.**

Sept. 2, 1895.

Mr. Chas. M. Hays,  
Vice Pres't. Wabash R. R.,  
St. Louis, Mo.

Dear Sir,—

F. M. Hubbell & Son own the north 44 ft. of Lot 6 in Block 15, and all of Lot 3, Block 15, being property immediately south of the depot. This is needed for railway purposes and in fact was bought by us in anticipation of the Railway Co's needs. The railway tracks are now occupying a part of this property.

The D. M. Union owns Lot 6 in Block 20, being known as the Heath Lot and the north 22 ft. of Lot 8, in Block 30, known as the Darby Gill property.

I believe it would be to the advantage of the D. M. Union to make an exchange of the Heath and Darby Gill property, which is out of the line of the right-of-way of the D. M. Union and will never be needed for tracks, for an equal amount of F. M. Hubbell & Son's ground lying directly south of the depot. I should think that an exchange of one foot of F. M. Hubbell & Son's ground for one foot of the railway land would be a fair way. If F. M. Hubbell & Son owned the Heath lot, they would be in better shape to find a good tenant and shipper, while they are prevented from building any permanent structure on the ground south of the depot, well knowing that the same will be needed for railway purposes. Please advise.

Yours truly,

(Signed) F. C. HUBBELL, Pres't.

704

**Defendants' Exhibit 348.****The Wabash Railroad Company.**

Office

Chas. M. Hays, Vice Pres't &amp; Gen'l Manager.

St. Louis, Mo. Sept. 18th, 1895.

Mr. F. C. Hubbell,  
 Prest. Des Moines Un. Ry.  
 Des Moines, Iowa.

Dear Sir:—

I have yours of Sept. 17th, relative to track connection with the Union Stock Yards.

I think you should be particular not to make any investments of this character until the Yards are located and fixed beyond any possibility of change, and after that is done and you receive deed from the company for the right of way necessary for the tracks, you have our consent to the putting in of a track, with the understanding that all expense in connection therewith is to be charged to capitalized account and the roads reimbursed by the issue of Des Moines Union bonds in amounts similar to their contributions towards the expense.

Yours truly,

(Signed) CHAS. M. HAYS,  
 Vice Pres't. & Gen'l. Mgr.

705

**Defendants' Exhibit 348a.****The Wabash Railroad Company.**

Office

Chas. M. Hays, Vice Pres't. &amp; Gen'l. Manager.

St. Louis, Mo. Nov. 26th, 1895.

Mr. F. M. Hubbell,  
 Secretary, D. M. U. Ry. Co.,  
 Des Moines, Iowa.

Dear Sir:—

I hereby tender my resignation as Director of your Company representing the Wabash R. R. to take effect December 1st, 1895, and would suggest that Mr. J. Ramsey, Jr., my successor in the management of this Company, be nominated to fill the vacancy.

Yours truly,

(Signed) CHAS. M. HAYS,  
 Vice-Pres't & Gen'l Mgr.

Papers all forwarded

April ..... '96.

**Defendants' Exhibit 349.****The Wabash Railroad Company.**

Office

Chas. M. Hays, Vice Pres't &amp; Gen'l Manager.

St. Louis Mo. Sept. 27th, 1895.

Mr. F. C. Hubbell,

Pres't. Des Moines Un. Ry.

Des Moines, Iowa.

Dear Sir:—

Replying to yours of Sept. 24th, relative to the purchase of the 18 ft. strip off of the North side of the C. R. I. & P. right of way in West Des Moines, equalling 2.19 acres at \$1,000.00 per acre.

I presume from your statement of the case, it is desirable that the Des Moines Union should acquire and own this property, and this will be your authority from us to make the purchase, charging the same to construction account, with the understanding that Des Moines Union bonds are to be issued the contributing parties for the same amounts as paid.

Yours truly,

(Signed) CHAS. M. HAYS,  
Vice Pres't. & Gen'l Mgr.

**Defendants' Exhibit 350.**

Oct. 23, 1895.

Mr. Chas. M. Hays,

Vice Pres't. Wabash R. R.,

St. Louis, Mo.

Dear Sir,—

Referring to attached, F. M. Hubbell & Son will sell the north 44 ft. in Block 6, and all of Lots 3 and 4 in Block 15, for \$30,000 accepting D. M. Union bonds at par in payment for the same. These lots cost us, figuring the interest at 7% \$28,000 and as the D. M. Union bonds are not worth quite par, we figure that this only let us out whole. We do not like to sell Lot 3 and retain Lot 4, as we bought all of this property expecting the Union would need it.

Yours truly,

(Signed) F. C. HUBBELL,  
Pres't.

708

**Defendants' Exhibit 350a.**

St. Louis, Mo. Dec. 6, 1895.

Mr. F. M. Hubbell,  
Pres't. D. M. U. Ry. Co.,

Dear Sir:—

Enclosed herewith find certificate No. 7 for one share of Des Moines Union Railway Company stock issued for the purpose of qualifying me as director.

Please issue and forward to Mr. J. Ramsey, Jr., General Manager, Wabash Railroad Company, certificate reading in his name.

Yours truly,

CHARLES M. HAYS.

709

**Defendants' Exhibit 350b.****The Wabash Railroad Company.**

Office

J. Ramsey, Jr., Genl. Manager.

St. Louis, Mo. Dec. 10th, 1895.

Mr. F. M. Hubbell,  
Secretary, D. M. U. Ry. Co.,

Dear Sir:—

I am in receipt of your favor of the 9th, together with certificate No. 28, covering one share of stock in the Des Moines Union Railway Company issued in my name.

Yours truly,

J. RAMSEY, Jr.,  
General Manager.

710

**Defendants' Exhibit 350c.****The Wabash Railroad Company.**

Office

J. Ramsey, Jr.,

Vice-Prest. &amp; Genl. Manager.

St. Louis, Mo. Jan. 23rd, 1896.

Mr. F. C. Hubbell,  
President, Des Moines Union Railway Co.,  
Des Moines, Ia.

Dear Sir:—

In order to complete my records, will you please have prepared and send me at your early convenience, copy of the minutes of the last meeting, held January 2nd, 1896.

Yours truly,

J. RAMSEY, Jr.,  
Vice-Prest. & Genl. Mangr.

711

**Defendants' Exhibit 351.**

Chicago, Milwaukee & St. Paul Railway Co. Subject:  
Secretary's Office. Des Moines, Nor. & Western

P. M. Myers, M-G  
Secretary.

Milwaukee, March 26, 1896.

Mr. F. M. Hubbell, President,  
Des Moines, Iowa.

Dear Sir:—

I have yours of the 24th, with minutes of the meeting of the Stockholders of the Des Moines, Northern & Western Railway Company, held Jan. 2, 1896, and of the meetings of the Stockholders of the Des Moines, Northern & Western Railroad Company, for which please accept thanks.

When the notice of the dissolution of the Railway Company has been published as required by law, will you please send me a copy of it, with an affidavit of publication, that I may attach it to the minutes of the Stockholders meeting of that Company?

Yours truly,

(Signed) P. M. MYERS,  
Secretary.

712

**Defendants' Exhibit 352.**

April 7, 1896.

Mr. J. Ramsey, Jr.,  
Gen. Mgr. Wabash R. R.,  
St. Louis, Mo.

Dear Sir:—

The Association of Iowa Egg and Butter Dealers meet at Des Moines this week, with view of building in Des Moines a manufacturing plant to make egg case fillers. They now propose to locate on the land of the Carbondale Coal Company. As there will be a large attendance, it has been requested that the Des Moines Union take the members of the Association out to the Carbondale land to look over the ground. This we are willing to do if the Wabash will allow us trackage free. If the industry is located on the Carbondale land, you of course understand that it will be greatly to the benefit, not only of the Des Moines Union, but also the Wabash. Please advise by return mail.

Yours truly,

F. C. HUBBELL,  
Pres.

713

**Defendants' Exhibit 353.****The Wabash Railroad Company.**

Office

J. Ramsey, Jr., Vice-Prest.  
and Genl. Manager.

St. Louis, Mo., April 8th, '96.

Mr. F. C. Hubbell,  
President, Des Moines Union Ry.,  
Des Moines, Ia.

Dear Sir:—

Replying to your letter of April 7th. If you will furnish the equipment and perform the service, we will allow free trackage from Des Moines to Carbondale Switch and return for the proposed excursion of the Iowa Egg and Butter Dealers.

Yours truly,

J. RAMSEY, Jr.,  
Vice-Pres. & Genl. Mangr.

714

**Defendants' Exhibit 354.****The Wabash Railroad Company.**

Office

J. Ramsey, Jr., Vice-Prest.  
and Genl. Manager.

St. Louis, Mo., Aug. 21st, '96.

Mr. F. C. Hubbell,  
Supt. D. M. N. & W. R. R. Co.,

Dear Sir:—

I have your statement showing the number of cars of coal from Carbondale mines from January 1st to August 1st, 1896, and although you say in your note attached that it explains itself, I must admit that I do not understand the statement. This dullness on my part is probably due to my not being posted as to the manner of handling this traffic.

As I understand it, however, the Wabash company makes a charge for trackage of \$1. for each loaded car and 50 cents for each empty car between the Des Moines Union tracks and Carbondale Junction, and that the rate per ton on this coal from the mines to Des Moines is 30 cents, i. e. on all coal for local consumption in Des Moines.

Your statement shows 1679 loads handled; 426 of these were handled in Des Moines Union cars and I presume these

426 cars covered all that was used locally in Des Moines, the remaining 1253 cars having been treated as the business of the Des Moines Northern & Western Road.

The gross revenue to the D. M. U. Ry. Company was \$2131.42, and I presume this total revenue accrued from charges applied only on the 426 loads, making an average of less than \$5 gross per car, which would indicate at 30 cents per ton, that D. M. U. cars averaged less than 17 tons per car.

715 What revenue, switching charge or trackage expenses did the D. M. U. Company receive on the 1253 cars which went to the D. M. N. Ry., or did these cars count only in fixing the percentage to be paid of the D. M. U. expense. If they are handled on the latter plan, will you kindly advise me how they are counted, i. e., did they count each time they entered and left the terminals both on the East and North or only once, as a loaded and empty car passing through the City?

I trust you will pardon the numerous questions I am asking, but I have to ask questions in order to get posted on matters in which the Wabash Company is interested.

If you will therefore kindly write me at some length, explaining the entire system of handling this coal traffic, I shall appreciate it.

Very truly yours,

J. RAMSEY, JR.,  
Vice-Pres't & Gen'l Manager.

716

### Defendants' Exhibit 355.

Aug. 24, 1896.

J. Ramsey, Jr., Vice-Pres.,  
Wabash R. R., St. Louis, Mo.

Dear Sir:—

Replying to yours of the 21st with reference to Carbondale business, would advise your understanding of the trackage charge of \$1.00 for loaded and 50 cents for empty cars is correct. The reason that the gross revenue to the Des Moines Union, per car, for the number of cars handled between Carbondale and Des Moines is so small, is that D. M. N. & W. cars are very small, most of them being 30,000 capacity cars, only a few of them being 60,000 capacity. As stated in my several letters, the business handled from Carbondale mine is treated as though it was on the Des Moines Union tracks and business from the mine to points on the D. M. N. & W. are handled by the switching crews of the Des Moines Union and

billed out as Des Moines Union force in just the same manner as any other business originating in Des Moines. The Des Moines Union counts the D. M. N. & W. wheels when they come on the terminals from the west and when they leave the terminal going west, but do not count any wheelage when cars go to the Carbondale mine. But D. M. N. & W. pays the trackage charge due the Wabash on cars loaded at Carbondale for points on D. M. N. & W. I believe this answers all points.

Yours truly,

(Signed) F. C. HUBBELL,  
Pres.

### Defendants' Exhibit 356.

August 24, 1896.

Mr. Jas. Ramsay, Jr.,  
Genl. Manager, Wabash R. R.,  
St. Louis, Mo.

Dear Sir:—

I have just sent you the following telegram which I now confirm: "We can buy southeast corner Eighth and Cherry Streets 66x132 feet, being Lot 1, Block 4, Original Town, for eleven thousand, five hundred dollars. Will Wabash advance one-half of this amount and take its pay in D. M. Union bonds? This is the lot we talked about when you were here. We recommend its purchase."

The purchase of the lot in question would give the D. M. Union Company the entire front from Seven to Eighth Streets and it is upon these two lots you thought the Great Western freight house should be located, instead of on the block immediately east. We have gone to a great deal of trouble to get this option and I am satisfied that it is as low as we will ever be able to buy the property and whether Mr. Stickney gets it or not, I think the D. M. Union ought to buy it now and thereby obtain the entire Cherry street front from Fifth to Eighth streets.

We understood when you were here that you were in favor of acquiring this property in order to be in condition to trade with Mr. Stickney. Hoping to receive a favorable reply from you at once, I am,

Yours truly,

F. C. HUBBELL,  
Pres.

**Defendants' Exhibit 357.****The Wabash Railroad Company.**

Office.

J. Ramsey, Jr., Vice-Prest. &amp; Genl. Manager.

St. Louis, Mo. Aug. 26th, '98

Mr. F. C. Huddell,

Pres't. D. M. V. Ry. Co.,

Dear Sir:—

This will be handed you by Mr. Pryor, our assistant auditor, whom I have requested, in company with Mr. Garrett to go to Des Moines, and look over the methods and cost of operating the joint terminals.

I do not do this because I have any doubt or apprehension as to the property being handled in the best way possible for the interests of all, but only in order to full post myself on the whole situation at that point.

I find our company has not been in the habit of receiving any statement from the Des Moines Union, other than the one showing the cost of operation, and we have no information, whatever, as to the revenues of the company, their general disposition, etc., nor any of the detailed information which I think we should have in order to keep properly informed.

Will you kindly have the officers of the Des Moines Union furnish Messrs. Pryor and Garrett every opportunity necessary for them to become properly posted in the premises.

Yours truly,

J. RAMSEY, Jr.,

Vice-Prest. &amp; Genl. Manager

**Defendants' Exhibit 357a.****The Wabash Railroad Company.**

Office.

J. Ramsey, Jr., Vice-Prest. &amp; Genl. Manager.

St. Louis, Mo. Oct. 13th, 1898

Mr. F. M. Huddell,

Secretary, D. M. V. Ry. Co.,

Dear Sir:—

Replying to yours of the 3rd. The new contract proposed between the C. & G. W. Ry. Co. and the D. M. V. Co. is now in a shape which is satisfactory to the Wabash management

and we will vote in favor of its ratification at the meeting of the Board of Directors.

The organization of the Des Moines & St. Louis Railroad Company was not (continued) after the purchase of the property by the Wabash Purchasing Committee and all of the rights and contracts of the Des Moines & St. Louis road having accrued to the Purchasing Committee, I presume that Committee would have ample power to sign any agreement necessary in connection with the C. & G. W. contract.

Yours truly,

J. RAMSEY, Jr.,  
Vice-President, & Genl. Manager.

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**Defendants' Exhibit 358.**

**The Wabash Railroad Company.**

Office.

J. Ramsey, Jr., Vice-President, & Genl. Manager.

St. Louis, Mo., Nov. 3rd, '86.

Mr. F. M. Hubbell,  
Presd. D. M. U. Ry. Co.,

Dear Sir:—

Failing to find any contract now in effect which gives the D. M. N. & W. Company the right to handle cars to and from Carbondale on the east side of Des Moines, without such cars being counted in the wheelage or number of cars in and out, I would like to have you advise me what your authority has been for leaving these cars out of the wheelage account since the expiration of the contract which should give the Des Moines Northern & Western that right for, I believe a period of three years.

If you have no authority for doing this, I shall ask you to have an account made up showing all of the cars handled for the D. M. N. & W. Company to and from Carbondale mines since the expiration of the contract referred to, and that these cars be charged to the D. M. N. & W. Company, and that hereafter all such cars be accounted for monthly.

Yours truly,  
J. RAMSEY, Jr.,  
Vice-President, & Genl. Manager.

---

**Defendants' Exhibit 359.**

Nov. 23, 1896.

Mr. J. Ramsey, Jr.,  
V. P. & G. M. Wabash R. R.,  
St. Louis, Mo.

Dear Sir:—

Replying to yours of the 3rd respecting the question of wheelage on cars which are handled between Des Moines and Ross Junction over your line would advise yours is the only company which receives any revenue from this movement and if there was any wheelage to be charged for this movement of cars, it would properly be chargeable to the Wabash R. R. as the cars go out and come in over your track and this would be in conformity with our wheelage charge against the C. G. W. R. R. However, at the time the contract was made between the Wabash R. R. and the D. M. Union Ry. it was understood that inasmuch as the D. M. Union Ry. leased the use of the track to Ross Junction that the same would be treated as D. M. Union rail and therefore, for the purpose of counting D. M. Union wheelage, the movement of cars over this rail, by the crews of the D. M. Union Ry. would not be counted against any of the tenant companies.

Yours truly,

F. C. HUBBELL, Prest.

**Defendants' Exhibit 360.****The Wabash Railroad Company.**

Office

J. Ramsey, Jr., Vice-Prest.  
& Genl. Manager.

St. Louis, Mo., Nov. 27th '96.

Mr. F. C. Hubbell,  
Prest. D. M. U. Ry. Co.

Dear Sir:—

Replying to your favor of the 23rd. As I understand the present method of counting cars and wheelage in and out of Des Moines, as against the companies using its tracks (except the D. M. N. & W.) it is as follows:

The tenant line is charged with one car into Des Moines, and if that car is delivered to a connection at Des Moines, and goes beyond, or is even switched by that connection to some other point in Des Moines, it is charged as another car against the road bringing the car in, and when a tenant line receives a car from a connection, it is charged as one car, and

when the tenant line takes that car out of Des Moines, it is again charged, so that in all cases (excepting the D. M. N. & W. to the Carbondale Coal mines) a car passing through Des Moines, or from a tenant line to a connection is charged as two cars.

The fact that the Wabash Company charges \$1.50 per car for the use of its rails between Des Moines and Ross Junction does not affect in the slightest the question of charging the D. M. N. & W. with the wheelage on each car to and from the Carbondale mines which goes out of Des Moines on the D. M. N. & W. Road to any point west of the Des Moines Union tracks.

This coal is billed from the Carbondale mines on D. M. N. & W. billing and the D. M. U. Ry. Co. does not receive one  
723 cent of revenue for the service. It is true, probably that the cost of the switching crews, engine service, etc., to the Des Moines Union Company for this service is prorated the same as the cost of its other services between the tenant lines, but even this only renders the discrimination in favor of the D. M. N. & W. and against the Wabash more glaring, for the reason that this service increases the expenses of the D. M. U. Co., which increase is prorated between the Companies on the unfair basis above set forth.

I must therefore insist upon the wheelage of the D. M. N. & W. and the Wabash company being corrected back to the expiration of the period fixed by the agreement, which was entered in to at the time this service was begun.

Furthermore, while on this subject, I desire to call your attention to the fact that the use made of the property of the D. M. Union Company by the D. M. N. & W. having all of its shop work, general repairs, etc. performed at the shops of the D. M. U. Co. and the use of its terminal tracks for the storage of all bad order cars and cars waiting for repairs, and also the use of the services of the Master Mechanic and foreman of the D. M. U. Co. for the general repair work at any point on the line of the D. M. N. & W. Company is an unfair use of the Union property and employees, unless special compensation in addition to the regular wheelage proportion of the expense is paid therefor by the D. M. N. & W. and the information I have leads me to believe that no special compensation has been paid for such service.

Yours truly,

J. RAMSEY, Jr.  
Vice-Prest. & Genl. Manager.

Dec. 1, 1896.

Mr. J. Ramsey, Jr.

V. P. & G. M. Wabash R. R.,  
St. Louis, Mo.

Dear Sir:

Replying to yours of the 27th would advise the D. M. Union wheelage is now counted in the same manner as it has always been and the plan adopted for counting the wheelage was inaugurated when the Wabash Company dominated the policy of this company.

The tenant lines are charged with one car into Des Moines when it comes on the D. M. Union track. If the car goes to a connecting line for loading or unloading, where it is necessary for the tenant line to pay a charge, the D. M. Union does not make a wheelage charge for delivering the car to such connection, but in case the car is delivered to a line which is a tenant of the D. M. Union and this tenant makes a charge for the car, then the D. M. Union charges wheelage to such tenant in and out. Therefore, you will see that as your Company is receiving the revenue for the cars handled in the Carbondale business and are relieved from wheelage charge on the cars in both directions, you are fairly treated.

Respecting the third paragraph of your letter, as the D. M. N. & W. does not go to Carbondale, I do not understand how a charge against that Company could be made for cars which the D. M. Union handles in the Carbondale business. Carbondale mines are located on the D. M. Union tracks in every respect the same as the Packing House and you might just as well ask the D. M. N. & W. to pay a wheelage charge when a car goes to the packing house as when it goes to the Carbondale mine.

The D. M. Union Ry. leases of the Wabash road the right to use your track to Ross Junction and you make bills upon us each month for the rental. This track is either the D. M. Union's, and therefore no wheelage charge can be made, or else it is Wabash track and your company is liable for the wheelage.

Respecting the fourth paragraph of your letter would advise the manner of billing I do not consider an operating question, but one which is handled wholly in the freight department. If the General freight agent of the Des Moines Northern & Western Ry., sees fit to instruct the agent at Des Moines to bill

shipments one way or another, it is not a question of wheelage or a question in which any other tenant is interested from the standpoint as a tenant line. I would further state with reference to the last part of paragraph four of your letter, there does not seem to be any material increase in the Yard Expense since the commencement of the Carbondale business. If you will compare statements of expense of October, 1896 with October 1895 you will see the Yard Expense will not bear out your proposition and October, 1896, Yard Expense was largely increased by the running of the Wild West Show trains which earned the D. M. Union the very considerable revenue.

726 I would call your attention to the fact that since the Carbondale business has been handled by the D. M. Union Ry. Co. the wheelage of the D. M. N. & W. has increased so much that they are now paying forty per cent of the total wheelage; while before this, Carbondale business was handled by the D. M. Union, the D. M. N. & W. wheelage was so much smaller that the Wabash wheelage was about forty per cent of the total wheelage and is now about twenty per cent. This is a direct advantage to your company.

The Carbondale traffic is new business and increases the D. M. U. wheelage to just that extent. The fine coal is used in the northwest and the lump chiefly for locomotive purposes. There is no reason why your company should not be glad to see this traffic increase as much as possible. For your information would state that nine-tenths of this coal is handled on a rate based on continuous mileage and as the revenue is divided between the C. M. & St. P. Ry. and the D. M. N. & W. Ry. you can readily see that the D. M. N. & W's earnings are very thin and when that company pays wheelage two ways and pays the D. M. Union \$1.50 trackage, there is very little left to represent earnings. It cost the D. M. N. & W. \$3.63 per car in the month of October for all the Carbondale coal which they handled. You will see therefore, this coal business is taxed as heavily as the traffic will bear.

727 Answering the fifth paragraph of your letter, would further state that the question of Carbondale wheelage was clearly understood by all concerned at the time the arrangement was made a year ago. As there has been no change in the method of keeping the accounts and as this contract has been interpreted in this manner for one year by the people who made it, we cannot change it now. Of course you recognize that the D. M. Union must be its own judge of the manner in which wheelage is counted. While on this subject, allow me to present this matter to you in still a different phase. You probably have noticed that wheelage

in Des Moines yard runs more than one dollar per car each day. The D. M. N. & W. bring about 20 empty cars into Des Moines every day for Carbondale business which are loaded and returned, making 40 wheels or more than \$40.00 which they pay to the D. M. Union. It takes about three hours time for the switch engine to make the trip to Carbondale with these 20 cars each way. The billing is a matter of small expense. The D. M. N. & W. further furnishes the D. M. Union with the cars necessary to handle the switching business for the city trade.

Respecting the last paragraph of your letter would advise the contract under which the D. M. N. & W. is doing business with the D. M. Union Ry. provides that the D. M. Union will furnish adequate shop facilities for the repairs of engines and cars. This part of the contract has been verily complied with by the D. M. Union; their shops having burned down some years ago and only partially rebuilt. The machinery of the shop was more or less damaged by the fire and has never been properly repaired. The D. M. N. & W. Ry. have been compelled therefore to purchase and place in the D. M. U. shops a number of necessary tools and up to date has rendered no bill for rental charge on same. However, the  
728 condition of the shops is now so deplorable that at the annual meeting of the D. M. Union next month, the D. M. N. & W. will serve notice on the D. M. Union to place their shops in shape to make repairs in an economical and expeditious manner.

I have written at considerable length hoping that I can show you that the D. M. Union is acting fairly with all of its tenants and showing partiality to none.

Yours truly,

F. C. HUBBELL,  
Pres't.

729

**Defendants' Exhibit 362.**

**The Wabash Railroad Company.**

Office

J. Ramsey, Jr. Vice-Prest.  
& Genl. Manager.

St. Louis, Mo. Dec. 2nd, 1896.

Mr. F. C. Hubbell,  
Pres't, D. M. U. Ry. Co.,  
Dear Sir:—

Replying to your favor December 1st. The Keokuk & Western, according to their advertised schedule, have three trains

arriving and three trains departing from Des Moines, an average of 6 per day, excepting Sunday. This would be 156 trains per month, and on the basis proposed in your letter, they would pay 96 cents per train for the use of tracks and station, together with all of the expenses of ticket agent, light, heat, taxes, etc.

It strikes me that this is a very low charge and one which in all probability would be less per month to the K. & W. than the present cost of their passenger station terminal expenses.

I see no reason for placing such a low estimate on the value of the Des Moines Union Terminals, and I believe you can secure \$250.00 per month from them, just as easily as \$150.00.

Yours truly,

J. RAMSEY, JR.,  
Vice-President & Genl Manager.

730

**Defendants' Exhibit 362a.**

Office of  
The Wabash Railroad Company,  
195 Broadway.

New York, Dec. 28, 1896.

F. M. Hubbell, Esq., Secy.,  
Des Moines Union Railway Co.,  
Des Moines, Iowa.

Dear Sir:—

Permit me to remind you of our understanding to the effect that you would have prepared at once a new agreement for the tenant companies of the Des Moines Union Railway Co. to sign, this new agreement being considered necessary on account of the foreclosure of the Des Moines & Northwestern. I understand that the agreement will be exactly as before, except that the time must be made to correspond with the life of the bonds, or to be made for a period to extend beyond their maturity.

I write now for the purpose of urging the immediate preparation of this agreement, as without it we cannot well dispose of our bonds. When it is ready please forward it to Colonel Blodgett, asking him to examine the same and to send it to me as soon as possible. I should not suppose it would take long to have the agreement prepared and as time in this case is of importance I hope you will see that the paper is

gotten under way at once. Perhaps you have already taken the matter in hand and if so, so much the better.

Yours truly,

O. D. ASHLEY,  
President.

731

**Defendants' Exhibit 363.**

December 31, 1896.

Mr. A. B. Cummins,

Dear Sir:—

Herewith I hand you copy of the Articles of Incorporation of the D. M. & Union Ry. Company, also copy of the terminal contract made by the D. M. Union with the Des Moines & St. Louis, the Des Moines N. W., and the St. Louis, Des Moines & Northern Companies.

Mr. Ashley is very anxious to have the Des Moines Union Company cancel the old contract and enter into a new one with the Des Moines Northern & Western R. R. Co. and the Des Moines & St. Louis R. R. Co. so as to strengthen the D. M. Union Bonds which he wishes to put on the market, the strength to come from the fact that the terminal company will have a specific obligation of the D. M. N. & W. R. R. Company to pay rent.

I wish you would prepare this new contract before you go to Cleveland, if possible. I submit the following suggestions, viz:

On page 1 of the present contract the extent of the present railway seems to be limited to the eastern boundary line of the city on the east, and to Farnham Street on the west. I suggest that there be no limit, either east or west.

On page 4, I think the last Five (5) lines of section 4, should be left out, they not being pertinent for the reason that there are no narrow gauge cars in the city.

Section 8. Can this not be left out entirely? It seems to me to be wholly unnecessary.

732 Section 11. When Sec. 11 is read in connection with the Articles of Incorporation, it occurs to me that this section is entirely unnecessary. Section 22. In reference to Sec. 22 stating the duration of the contract, I wish to say that it is understood that the new contract shall not run longer than the old one, viz., until May 1st, 1918.

Section 24. I think Sec. 24 needs considerable remodeling. In the first place, the Purchasing Committee owns  $\frac{1}{8}$  of the stock, the Des Moines, Northern & Western R. R. Co.  $\frac{2}{8}$ , and F. M. Hubbell & Son  $\frac{5}{8}$ . I think it is desirable to have the new contract recognize the ownership of the stock as it now exists, hence the last 7 lines of Sec. 24 are unnecessary as the Wabash Company and the D. M. N. & W. Company each being bound to always have a Director in the Des Moines Union Company, can decide whether or not new railroad companies shall be admitted. This section is at this time, making us considerable trouble in getting the approval, or consent to the contract recently made with the Great Western. We have not yet obtained the formal consent of the owners of the Des Moines & St. Louis Co., to the making of that contract.

In reference to Section 26, it seems to me that this section was rendered entirely obsolete by the adoption at a subsequent time, of the Articles of Incorporation, and there is but very little, if any, of it that is now adopted to our present condition.

Yours truly,

(Sgd.) F. M. HUBBELL, Secretary.

733

### Defendants' Exhibit 364.

December 31, 1896.

Mr. O. D. Ashley, President,  
#195 Broadway, New York City.

Dear Sir:—

I have your letter of the 28th inst. urging the preparation of a new terminal contract between the Des Moines Union Railway Company on the one side and the Des Moines, Northern & Western R. R. Company and the owners of the Des Moines & St. Louis Road, as parties of the second part.

I have placed the papers in the hands of Mr. Cummins insisting that he prepare a new contract at once. As soon as it is finished I will forward it to Col. Blodgett.

Yours truly,

F. M. HUBBELL, Secretary.

**Defendants' Exhibit 365.**

January 6th, 1897.

Mr. O. D. Ashley, President,  
#198 Broadway, New York City.

Dear Sir:—

Referring to your letter of December 30th, in which you ask that we lose no time in the preparation of a new contract between the Des Moines Union Company and its tenant companies, will say that as I wrote you some days ago, the matter has been placed in the hands of Mr. Cummins, who has been urged to draw up a new contract as soon as possible.

The difficulty with Mr. Cummins seems to be this, he does not know with whom the contract is to be made, and he has written to Col. Blodgett asking for information on that subject.

I have in my hands a letter from Mr. Ramsey, dated January 1st, 1897, in which he says with reference to the Des Moines & St. Louis Road—"There are no officers or organization in existence. All of the property and franchises being held by a Committee, it seems to me their assent would be sufficient." This is in reference to the assent to the contract recently made with the Chicago Great Western Company.

Now if the Des Moines & St. Louis Company is extinct, the contract, it would seem, would have to be made by the Wabash Company, or by the Purchasing Committee. However, Mr. Cummins and Mr. Blodgett will no doubt settle it very soon.

I am hurrying it as fast as I can. If there is any delay, it will be caused by Mr. Blodgett.

Yours truly,

F. M. HUBBELL, *Secretary.*

**Defendants' Exhibit 365a.**

Office of  
The Wabash Railroad Company.  
195 Broadway.

New York, Jan'y 9, 1897.

F. M. Hubbell, Esq., Sec'y.,  
Des Moines Union Railway Co.,  
Des Moines, Iowa.

Dear Sir:—

Yours of the 6th received. Mr. Ramsey is mistaken in saying that there is no organization of the Des Moines & St. Louis

R. R. Co. in existence. There is a board of directors and it can be called together without difficulty. Colonel How, the last President is dead, but, of course, the vacancy can be filled at the next meeting. The Purchasing Committee hold their title to this property through the ownership of the stock, and the corporation is not only in existence but must be kept so.

Colonel Blodgett has been here this week, but has now returned to St. Louis and it was understood between him and myself that he would at once call a meeting of the directors of the D. & St. L. in St. Louis. He will notify you and Mr. Cummins to this effect and ask you, probably, to go to St. Louis for one day in order to secure a quorum of the Directors. He has the whole programme marked out and I think will proceed to its execution at once. You will probably  
 737 hear from him early next week and I hope you and Mr. Cummins will be able to meet him in St. Louis, as he may request.

Meantime there is no reason why Mr. Cummins should not proceed with the new contract, counting upon the signature of the Des Moines & St. Louis Railroad.

I thank you for your active co-operation in the matter and hope we shall succeed in getting the new agreement under way without further delay.

Yours truly,

O. D. ASHLEY,  
 President.

738

### **Defendants' Exhibit 365b.**

Telegram.

St. Louis, Mo., Jan. 13, 1897.

F. M. Hubbell,  
 Des Moines, Iowa.

Will you be home Friday this week? If can get Martin and Cummins I want to have meeting board of directors Des Moines and St. Louis road.

W. H. BLODGETT.

**Defendants' Exhibit 366.****The Wabash Railroad Company.**

Office

J. Ramsey, Jr., Vice-Prest.

&amp; Genl. Manager.

St. Louis, Mo., Jany. 14th, 1897.

Mr. F. C. Hubbell,

Prest. D. M. U. Ry. Co.,

Dear Sir:—

I have your favor of the 12th relative to the C. & G. W. refusal to pay their proportion of the terminal expenses on passenger car wheelage.

Not having a copy of the C. & G. W. contract under which they have been operating in the past, I am not in a position to express any opinion regarding the equity of their claim, but unless their contract specifies to the contrary, it certainly seems to me that a through train should be counted in and out. This is the universal rule at all Union Stations, as the train is a train into the station bringing passengers in, and it is also a train out, taking passengers away from the city, and if I were you, I would certainly insist upon a settlement of these bills, unless, as I say above, the contract is to the contrary.

I think I would also object to submitting it to arbitration as it would not be fair to the other tenant lines to give the C. G. W. Co. an opportunity of securing different terms for the use of the property, than has been given to the other lines for years past.

As the C. G. W. Company have completed their contract with you for the use of the property for the next twenty-five years, I think you are in a position to meet "bluff" with  
740 "bluff"; in other words, say to Mr. Stickney that unless he pays the bills as they have been rendered, that he cannot continue to use the Union Station under the old contract.

I think you would have the right to shut him out for refusal to pay bills rendered in accordance with the contract binding on all the tenants.

Yours truly,

J. RAMSEY, JR.,  
Vice-Prest & Genl. Manager.

741

**Defendants' Exhibit 366a.**

**The Wabash Railroad Company.**

General Solicitor's Office.

Wells H. Blodgett, Genl. Solicitor.

St. Louis, Mo. Jan. 21, 1897.

F. M. Hubbard, Esq.,  
Des Moines, Iowa.

Dear Sir:—

After wiring you this morning, I found the stock book of the Des Moines & St. Louis road here. I send it to you by Pacific Express to-night, and would like to have you as secretary sign five or six certificates in blank, and then return book here or forward to Mr. Ashley in New York.

Yours truly,

WELLS H. BLODGETT,  
Gen'l. Solicitor.

Dictated W.

742

**Defendants' Exhibit 367.**

February 3rd, 1897.

Col. W. H. Blodgett,  
Genl. Sol'r Wabash R. R. Co.,  
St. Louis.

Dear Sir:

I now enclose a contract prepared by Mr. Cummins, to be entered into by and between the Des Moines Union Ry. Company, the Des Moines & St. Louis R. R. Company, the Wabash R. R. Company, and the Des Moines, Northern & Western R. Company.

Mr. Ashley wanted it sent to you for approval. As soon as it is approved if you will return it to me I will have it printed in the form of a pamphlet, and we will execute it in that form instead of the long sheet written in type.

If you have occasion to amend this contract, please do so as quickly as you can and return it to me, and if the amendments are agreed to we will proceed to print say one hundred copies, four of which we will execute as originals, one for each party to the contract.

Mr. Ashley is in a great hurry for this contract, and I therefore ask you to be as expeditious as possible.

Yours truly,

F. M. HUBBELL,  
Secretary.

**Defendants' Exhibit 367a.**

**The Wabash Railroad Company.**

General Solicitor's Office.

Wells H. Blodgett, Gen'l Solicitor.

St. Louis, Feb. 3, 1897.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:—

Herewith I return the minutes of the stockholders' meeting Des Moines and St. Louis Railroad Company, held January 25th, 1897, for the election of a board of directors.

I have no suggestions to make, aside from showing Mr. Cummins present by proxy, and that all the shares of stock (20,000) were represented at the meeting. Will you please have the minutes entered in the record book and then, I think, Mr. Ashley would like to have the book sent to him.

Mr. Ramsey leaves for New York to-night and will take with him for examination on the train the new contract with the Des Moines Union Railway Company, as prepared by Mr. Cummins. As soon as he returns it to me, I will write Mr. Cummins.

Yours very truly,

WELLS H. BLODGETT,

**Defendants' Exhibit 368.**

2/18/97.

Mr. J. Ramsey, Jr.,  
V. P. & G. M., Wabash R. R.,  
St. Louis, Mo.

Dear Sir:—

Referring to the new terminal contract; I have seen the correspondence between you, Mr. Blodgett and Mr. Cummins. With respect to the Des Moines Union's revenue from rental and switching would say that this fund has always been controlled by the Terminal Company, and is the only money which

it has to use for other than strictly operating expenses. We therefore feel that the new contract should leave this fund the property of the Terminal Company. The rental and switching is a small item, and is now being used to pay our floating debt, consisting of \$31,000 held by Commercial Bank of St. Louis, which will consume this fund for a good many years.

Yours truly,

F. C. HUBBELL,  
Presd.

745

### Defendants' Exhibit 369.

#### The Wabash Railroad Company.

General Solicitor's Office.

Wells H. Blodgett, Gen'l Solicitor.

St. Louis, January 21, 1897.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:

I will send you by tomorrow's mail proxies for all shares of stock in the Des Moines and St. Louis Railroad, excepting the two shares held by yourself and Mr. Cummins. This will enable you to hold the meeting on Monday January 25th, as provided for in the call made by the Board of Directors. I shall write Mr. Cummins requesting him to be present and render any assistance necessary in holding the meeting and making up the record.

I send you herewith names of the new directors to be elected at the meeting.

Yours very truly,

(Signed) WELLS H. BLODGETT.

746

### Defendants' Exhibit 370.

#### The Wabash Railroad Company.

Law Department.

For Convenience all  
Business Communications  
Should be Addressed:

St. Louis,

General Solicitor  
The Wabash Railroad Co.,  
St. Louis, Mo.

Names of Des Moines and St. Louis Directors to be elected at meeting to be held Monday January 25<sup>th</sup> 1897.

Thomas H. Hubbard  
Edgar T. Welles  
Ossian D. Ashley  
John C. Otteson  
C. J. Lawrence  
H. K. McHarg  
W. H. Blodgett  
J. Ramsey Jr.  
F. M. Hubbell

747

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**Defendants' Exhibit 371.**

**The Wabash Railroad Company.**

General Solicitor's Office.  
Wells H. Blodgett, Gen'l Solicitor.

St. Louis, Mo. Jan. 22, 1897.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:—

I send you herewith proxies to vote at the Des Moines & St. Louis Company's special meeting on January 25<sup>th</sup>, 1897, as mentioned in my letter of the 21<sup>st</sup>.

Yours truly,

(Signed) WELLS H. BLODGETT,

Dictated. Martin

Gen'l Solicitor.

748

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**Defendants' Exhibit 372.**

Know All Men By These Presents;

That I, Edgar T. Welles do hereby constitute and appoint F. M. Hubbell or A. B. Cummins,

~~Edwin Gould, or S. W. Fordyce,~~ Attorney or Agent for me,  
Special

and in my name to vote as my proxy at the ~~Annual~~ Meeting of the Stockholders of the Des Moines & St. Louis ~~South~~ road  
Des Moines, Iowa,

~~western Railway~~ Company, to be held at ~~St. Louis, Missouri,~~  
Monday

on ~~Tuesday, October 6, 1896.~~ January 25, 1897.

And I do hereby authorize the persons above named, or either of them, to vote as my proxy at said meeting, or any ad-

jourment thereof, according to the number of votes I should be entitled to vote if then personally present.

In witness whereof, I have hereunto set my hand and seal

January  
this 16 day of ~~September~~, one thousand eight hundred  
and ninety-seven.

~~six~~

EDGAR T. WELLES. (L. S.)

Scaled and delivered in  
the presence of

J. C. Otteson.

Please have signature witnessed.

749

### **Defendants' Exhibit 373.**

Know all Men by These Presents, That we, the Wabash Purchasing Committee: O. D. Ashley, Secretary of the Wabash Purchasing Committee; H. S. Priest, Joseph Ramsey, Jr., George S. Grover, O. D. Ashley, Wells H. Blodgett and John C. Otteson, do hereby constitute and appoint F. M. Hubbell or A. B. Cummins, or either of them, Attorneys or Agents for us, and in our names to vote as our proxy at the Special Meeting of the Stockholders of the Des Moines and St. Louis Railroad Company, to be held at Des Moines, Iowa, on Monday, January 25th, 1897.

And we do hereby authorize the persons above named, or either of them, to vote as our proxy at said meeting, or any adjournment thereof, according to the number of votes we should be entitled to vote if then personally present.

In Witness Whereof, we have hereunto set our hands and seals  
this 16th day of January, one thousand eight hundred  
and ninety-seven.

### **WABASH PURCHASING COMMITTEE,**

O. D. Ashley Sec'y (Seal)

O. D. ASHLEY,  
Sec'y of the Wabash Purchasing Com. (Seal)

O. D. ASHLEY (Seal)

J. RAMSEY, JR. (Seal)

J. C. OTTESON (Seal)

WELLS H. BLODGETT (Seal)

H. S. PRIEST (Seal)

GEO. S. GROVER (Seal)

Scaled and delivered  
in the presence of:

B. C. Winston.

416

THE C., M. &amp; ST. P. RY. CO. ET AL. VS.

750

**Defendants' Exhibit 374.****The Wabash Railroad Company.**

General Solicitor's Office.

Wells H. Blodgett, Gen'l Solicitor.

St. Louis, Feb. 1, 1897.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:—

My absence in Washington prevented an earlier reply to yours of the 26th.

In reply to your inquiry as to names of parties holding stock in Des Moines and St. Louis Railroad Company, I beg leave to say, that the total number of shares is 20,000, one share of which, at the date of the meeting, was held by each of the parties who signed the proxy forwarded to you, and 9,995 shares were held by O. D. Ashley, Trustee of the Wabash Purchasing Committee, and all the other shares were held by the Wabash Purchasing Committee, of which Mr. Ashley is the Secretary. Mr. Ashley, therefore, signed the proxy as Secretary for the Purchasing Committee and as trustee for the Purchasing Committee, and also for himself, as the holder of one share. In making up the record you can make it appear that you hold one share, Mr. Cummins one share & each of the parties signing the proxy one share; that O. D. Ashley held 9,995 shares as trustee for the Wabash Purchasing Committee, and that all the other shares (making 20,000 in all) were held by the Wabash Purchasing Committee, composed of O. D. Ashley, Thomas H. Hubbard and Edgar T. Welles.

751 Should you desire me to write up the record I will do so, if you will send down by express the minutes and record book. I will then return the book to you for signatures.

Very truly yours,

(Signed) WELLS H. BLODGETT.

752

**Defendants' Exhibit 375.**

Feb. 18, 1897.

Col. W. H. Blodgett, Gen'l Sol'r.  
Wabash R. R. Co.,  
St. Louis, Mo.

Dear Sir:—

Have your favor of the 16th inst. and have carefully considered the amendments that you propose to the terminal con-

tract, and the reasons which are stated in Mr. Ramsey's letter for the changes. I agree that if the relations between the Des Moines Union Co. and Wabash Co. were such as to enable the former to increase the rentals to be paid at its own pleasure, the agreement would be seriously defective; but I think that both Mr. Ramsey and yourself have overlooked the fact that the Wabash R. R. Co., or the Purchasing Committee for it, is the owner of one-eighth of the capital stock of the Des Moines Union; that no further stock can be issued without the affirmative vote of that part of the stock, or some part of it, that you represent; that it requires more than seven-eighths of all the stock to elect a Board of Directors, and that it requires the unanimous action of the Directors to authorize the transaction of any business except that which pertains to the ordinary operation of the property; that there is an Executive Committee provided for in these articles upon which the

753 Wabash always has had and always will have a representative; and that the articles cannot be amended without the consent of the one-eighth interest that you hold. The Des Moines Union Co. was reorganized in 1889 or 1890 for the express purpose of putting these safeguards into its Articles of Incorporation and enabling it to enter into a contract with those of its tenant companies which owned stock in the Des Moines Union Co., and not turn over the management of the company in form to the tenant companies. I quote some of the provisions of these articles:

Art. III contained the following:

"The remaining capital stock, to-wit: sixteen thousand shares or any part thereof, shall be issued by the authority of a resolution of the stockholders adopted by the vote of more than seven-eighths of all the stock theretofore issued."

Art IV contains the following:

"The affairs of the corporation shall be managed and its business conducted by a board of directors composed of eight persons, who shall be elected by the stockholders at their regular annual meeting to be held at the office of the company in Des Moines, Iowa, on the first Thursday in January of each year; and they shall hold their offices for one year, and until their successors are elected and qualified; but at all future elections of directors it shall require the votes of more than seven-eighths of all the stock theretofore issued to elect any director."

754 "The Board of Directors shall have the power to authorize the execution of mortgages, to issue bonds, to enter into contracts, to purchase property, to construct buildings, to make leases, to authorize the institution of condemnation proceedings, and to do all such other things as may be proper or necessary for the corporation to do; but with respect to the matters above mentioned and all other matters except the ordinary operation of the property, the Board can only act upon the affirmative vote of all its members."

I have no doubt that you will find at Mr. Ramsey's office a copy of these amended articles.

I observe that the substitute which you propose for the proviso to Sec. 1, and your substitute for Sec. 9, as well as the material interlineations save one, which I shall hereafter mention, have reference to a control to be exercised by the tenant companies over the Des Moines Co. I cannot but believe that when you consider the articles of incorporation you will agree with me that the changes need not be further considered.

With respect to the change in Sec. 4, which would require the Des Moines Co. to credit upon its expenses and disbursements the accounts received by it for switching charges, rental of houses and things of that character, Mr. Hubbell has written to Mr. Ramsey recalling to his attention the situation, which absolutely precludes the disposal of such revenues of the company in that way.

755 I have no objection to any assignee or successor of the Des Moines, Northern & Western so that it shall be as broad and comprehensive as that which is applied to the Wabash. The language is different because of the peculiar arrangement between the Wabash and the Des Moines & St. Louis.

Awaiting your reply, I am,

(Signed) A. B. CUMMINS.

756

#### **Defendants' Exhibit 376.**

Des Moines, Iowa, Feb. 24, 1897.

F. C. Hubbell, Pres.,  
City.

Dear Sir:—

I have your favor of the 22nd inst. with respect to the Des Moines Union contract. I have a telegram from Col. Blodgett asking me to send him a copy of the amended articles of the company, which will go to-day, and assume that when he

has examined them he will reply to my letter in which I pointed out the protection his company would receive through them. When the draft is returned to me do not forget to make the suggestion with regard to putting in the gold clause.

Yours very truly,  
A. B. CUMMINS.

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**Defendants' Exhibit 377.**

Ex. "D" to Dep. of A. B. Cummins.

The Wabash Railroad Company.

General Solicitor's Office.

Wells H. Blodgett, Gen'l. Solicitor.

St. Louis, March 26, 1897.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:—

I was so busy yesterday I could not get the amendments to the contract off last night. I now inclose them.

The first change is in the proviso to the granting clause in Section one. That, in the form in which I now present it, is intended to prohibit the Des Moines Company from hereafter making exclusive grants of any portions of the terminals without the written consent of the tenants. (2). It prohibits the Des Moines Company from admitting other tenants on different terms than those herein granted to the Wabash and Des Moines, Western and Northern without their consent, and (3) it prohibits the Des Moines Company from making leases of portions of said terminal grounds not now needed for railroad purposes, for more than six months, without the written consent of the tenant companies.

2nd. I send Section 3 in two forms, and I need not go into any detailed explanation of them. Number one is founded upon the theory, that the Des Moines Company may do a switching business during the whole period of the lease, paying, on a wheelage basis, the same proportion of interest charges, cost of maintenance and operating expenses, as 758 is paid by the tenants, and using its net revenue throughout the term in improving the property. That is the form suggested by Mr. Ramsey and myself.

Number two, presents the section as you and Mr. Ashley suggested. Under it you are to switch and handle cars for others than tenant companies, and collect the revenue, until

the net profits, together with the rentals from portions of the ground, amount to fifty thousand dollars, of which sum thirty-five thousand dollars is to be applied on the floating debt, and the balance used for a working fund. And after the fifty thousand dollars has been realized, all the net revenues from switching is to go to the tenant companies to reduce their expenses, on a wheelage basis.

These changes in the contract present the main features to which the other sections are to conform. I have not gone through the various sections in detail to see what changes, if any, will be needed. I understand, however, that if you accept the changes in Section one, and Section three in either of the forms in which that section is now presented, no further change need be made, excepting such as may be necessary to make the contract harmonious in all its parts. I do not know, of course, but what the phraseology of these amendments as I present them, can be improved upon, but I think they embody the essential ideas.

Mr. Ashley goes home tonight, but before leaving he examined carefully the amended sections, and he thought them drawn in accordance with the conclusions reached when you were here.

Very truly yours,

(Signed) WELLS H. BLODGETT.

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### **Defendants' Exhibit 378.**

No. 1.

Exhibit F, to deposition of  
Albert B. Cummins.

Section 3. Having so ascertained the monthly aggregate of all the items and sums mentioned in the preceding section, which shall embrace every item of expense or liability of whatsoever name or character (excepting taxes, repairs and other expenses on such portions of said property as the Des Moines Company may have leased, or which it may claim the right to lease and collect and retain the rentals) there shall then be deducted therefrom the amount, if any, which other railway companies may be under obligations to pay by virtue of contracts for the use of said property, or parts thereof, and also all revenues and rentals due from individuals or companies for the enjoyment of privileges, or the use of space at, or in the passenger station, and also all the rentals due from every company or person whomsoever, for the use of railroad tracks, facilities, or privileges for the preceding month, and the re-

mainder shall be provided by the Des Moines & St. Louis Company, the Wabash Company, the Des Moines Northern & Western Company and the Des Moines Company, in gold coin of the United States of America, of, or equal to, the present standard of weight and fineness, in the proportion that the wheelage of each of said companies bears to the entire wheelage over said terminals during such preceding month, exclusive of the wheelage of the Chicago & G. W. Railway. And it is expressly understood, that for the purpose of ascertaining their said monthly liability, the total wheelage of all parties using said terminals, excepting the Chicago & G. W. Railway shall be considered. And it is understood and agreed that the

760 Des Moines Company shall have the right to make leases, as provided in section one of this contract, of such portions of said grounds as are not then required, or used for railroad or terminal purposes; but that said privilege of the Des Moines Company to make leases and collect and retain the revenues shall not include the right to grant any privilege, or the use of any space at or in the passenger station, or other buildings erected or used for railroad purposes, or the right to make any lease or contract for the use of any tracks or other railroad facilities. But it is agreed that none of the revenues of the Des Moines Company, derived from the rentals of such portions of said grounds as it is herein authorized to lease, or the revenues derived from tolls, or switching service performed, shall be considered in ascertaining the aggregate sum to be provided each month by the Des Moines Company and the lessees herein.

And it is further agreed that all revenues derived by the Des Moines Company from said rentals, tolls, or switching charges in excess of its proportion of said aggregate expenses, shall (after paying taxes on so much of said property as it is entitled to lease for its own benefit) be used by the Des Moines Company in paying its present floating indebtedness, not exceeding thirty-five thousand dollars; the establishment of a working capital, not exceeding fifteen thousand dollars, or in improving said terminal properties for the benefit of the parties using the same for railroad purposes, in such manner as the Executive Committee may direct.

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### **Defendants' Exhibit 379.**

No. 2.

Exhibit E to deposition  
of Albert B. Cummins.

Section 3. Having so ascertained the monthly aggregate of all the items and sums mentioned in the preceding section,

which shall embrace every item of expense or liability of whatsoever name or character (excepting taxes, repairs and other expenses on such portions of said property as the Des Moines Company may have leased, or which it may claim the right to lease and collect and retain the rentals) there shall then be deducted therefrom the amount, if any, which other railway companies which pay upon any other than a wheelage basis may be under obligations to pay by virtue of contracts for the use of said property, or parts thereof, and also all revenues and rentals paid by individuals or companies for the enjoyment of privileges, or the use of space at, or in, the passenger station, or other buildings erected and used for railroad purposes, and all the rentals due from every company or person whomsoever, for the use of railroad tracks, facilities, or privileges, for the preceding month; and the remainder shall be paid by the Des Moines & St. Louis Company, the Wabash Company, the Des Moines Northern & Western Company, in the gold coin of the United States of America of or equal to the present standard of weight and fineness, in the proportion that the wheelage of each of said companies bears to the entire wheelage of the tenant companies paying on a wheelage basis over said terminals during such preceding month.

762 And it is expressly understood and agreed, that the Des Moines Company reserves the right to switch, handle and transfer cars over said terminal tracks for other than tenant companies, to and from industries, and to and from other railroads with which its tracks connect, upon such terms and for such compensation as may be fixed by the Executive Committee; and it shall also have the right to make leases, as provided in Section One hereof, of such portions of its property as are not at the time required by the lessees herein, or either of them, for railroad or terminal purposes. And the Des Moines Company shall have the right to collect, and shall collect and retain all charges due for switching, handling and transferring such cars, and also all rentals due under such leases, until the aggregate of such collections amount to the sum of fifty thousand dollars (\$50,000.) and out of the sum last aforesaid, not exceeding thirty-five thousand dollars (\$35,000.) shall be applied to the payment of the present floating indebtedness of said Des Moines Company, and the balance shall belong to said Des Moines Company and constitute a working fund, to be expended from time to time in improving said terminal properties, for the benefit of the parties using the same for railroad purposes, in such manner as the Executive Committee shall direct.

It is further agreed that after said sum of fifty thousand dollars shall have been realized from the sources aforesaid all revenues thereafter derived from switching, handling and transferring cars shall be credited monthly upon the bills of the tenant companies herein and such other tenant companies as may by subsequent contract become entitled thereto, and each of said tenant companies shall receive a credit for the percentage thereof that its wheelage for the month for which the credit is made, bears to the total wheelage, for said month, of all the companies entitled to participate in said revenues. But it is further understood and agreed, that after said sum of fifty thousand dollars shall have been realized, as aforesaid, all revenues thereafter derived from the rentals of such portions of said grounds as the Des Moines Company is herein authorized to lease, shall belong to said Des Moines Company and shall be used in improving said terminal properties for the benefit of the parties using the same for railroad purposes, in such manner as the Executive Committee shall direct. It is understood that the privilege reserved to the Des Moines Company of making leases of such portions of said property as are not at the time required by the lessees herein for railroad or terminal purposes, shall not be understood as including the right to grant any privileges, or the use of any space at or in the passenger station, and used, or the right to make any lease or contract for the use of any tracks or other railroad facilities or privileges.

**Defendants' Exhibit 380.**

**The Wabash Railroad Company.**

Office

J. Ramsey, Jr., Vice Pres't & Gen'l Manager.

St. Louis, Mo. March 26, 1897.

Personal.

Dear Mr. Hubbell:

After considerable trouble I have arranged matters, so as to give you the option between the two propositions as to switching &c. All other matters have, as I understand it, met your approval. The papers will go to you tonight, Col. Blodgett says, and I hope you will have them promptly accepted. If there is any further trouble, I shall despair of arriving at any new agreement, and shall feel inclined to drop the matter entirely, and let things take their course. I think this will be unfortunate for the D. M. Union Co., for as matters now stand, it will be useless to attempt to list the bonds, and this, in turn will make it hard to negotiate the

remaining bonds for depot purposes. We can never realize the advantages which the D. M. U. R. Co. possesses until a commodious union station is built, and the longer the delay, the greater the injury to the enterprise will be.

I rely, therefore, not only upon prompt action on your part in regard to this new agreement, but upon your avoidance of petty conditions, which are of no substantial value as compared to the general purpose and effect of this new agreement.

Yours truly,

(Signed) O. D. ASHLEY.

F. M. Huddell Esq  
Des Moines Ia.

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### Defendants' Exhibit 381.

Exhibit "A" to A. B. Cummins Deposition.

Office of  
The Wabash Railroad Company,  
195 Broadway,

New York, May 18, 1907.

F. M. Huddell, Esq., Sec'y.,  
Des Moines Union Railway Co.,  
Des Moines, Iowa.

Dear Sir:

I had an interview here on the 15th. with Mr. Ramsey and Col. Blodgett, and in accordance with our understanding at the end of the conference, they will go to Des Moines as soon as Col. Blodgett returns to St. Louis. They can probably arrange this for next week which begins on the 24th., and will notify you in time in order to arrive at some definite conclusion, if possible, as to the proposed new agreement between the Des Moines Union Railway Company and the tenant lines. This timely notice will enable you to arrange to have Mr. Cummins present, if you so desire it.

I read over a copy of the proposed form very carefully, and I could see nothing to which you could offer a serious objection. As to the allotment of the expenses in the freight department, I do not think it a matter of much consequence, so far as we are concerned, whether the calculation is made upon wheelage or tonnage basis, although I think the tonnage basis is the fairest and most approved method; but as to the distribution of expenses in the passenger department, there

766 can be no question but what the wheelage basis should be upon the passenger cars. It would not, perhaps, be a matter of much consequence, if we continue to use the pres-

out "ramshackle" structure for a passenger station, but if we are to have a new and comparatively expensive station, it is obvious that a calculation upon a wheelage basis of both freight and passenger cars would be unfair to all parties. On this point I think Mr. Ramsey is right.

There are certain fundamental principles in an agreement of this character, which I think should govern all parties interested in the permanent success of this terminal station. The most important of these is in the adoption of provisions which now and hereafter shall give equally fair conditions to the tenant companies. It is, I presume, not only desirable to keep all the companies now participating in the terminal facilities; but equally important to offer fair inducements to the companies we may wish to bring into the same station. Now, if the wheelage basis is to include freight as well as passenger cars, what equality could there be among tenants who have separate freight stations, and those who have not? It would simply saddle the companies which use the freight accommodations of the Terminal Company with an undue proportion of the expenses of the passenger station. Under such conditions we should be unwilling to enter into an agreement to use a new station, if constructed.

I think upon reflection you will conclude that the wheelage basis of the passenger station, must be upon passenger cars alone, in order to determine the contribution of each Company.

I consider an arbitration clause indispensable in an agreement of this kind, and see no good reason for your objection to it. It is in the present agreement and should be in the new.

I believe it to be your desire to promote the success of the Des Moines Union Railway Co. and I am heartily in accord with you in that respect; but, in my opinion, this object can only be secured by the adoption of liberal and perfectly fair terms to tenant companies. The moment it is suspected that advantages are sought for one Company over another, there will be friction, jealousy and obstruction. I do not accuse you of any such design, for I have always found you fair in the many transactions we have had together, but I think you should scrupulously avoid the consideration of terms which might lead to such a conclusion by others.

For these reasons I urge the prompt execution of an agreement which will be mutually fair and mutually satisfactory. Whatever concessions or changes, to which we have agreed thus far, have been in your favor, and I think I may claim to

have smoothed some of the matters which were in question, and which you considered essential to the financial interests of the Company. I hope, therefore, to see a similar spirit of conciliation on your part.

This is the last attempt I shall make to bring about a new agreement. If this fails we must simply stand upon  
768 the old, and let things take their course.

I believe in the erection of a new and commodious passenger station, as the most important matter to be carried out, in order to ensure the permanent success of this enterprise. The longer this is delayed the more uncertain will be the future of the Terminal Company. Without a satisfactory agreement, embracing fair and equal terms, I am confident there will be much less progress in the development of this property than would otherwise attend it.

Much will, in my judgment, depend upon the policy now to be decided, as to whether this shall be an enterprise of rapid and substantial improvement, or one of slow and doubtful growth. The enterprise can be made attractive or repellant, according to the wisdom of its management. It has splendid advantages, but they will be neutralized unless properly and skilfully utilized.

Yours truly,

(Signed) O. D. ASHLEY, President.

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### **Defendants' Exhibit 382.**

Ex. "C" to Dep. of A. B. Cummins. This is a copy of what we sent to Mr. Ramsey early in Feby.

This Agreement, made and entered into this 3rd day of February 1897, by and between the Des Moines Union Railway Company, a corporation organized and existing under the laws of the State of Iowa, (hereinafter termed the Des Moines Company), the Des Moines & St. Louis Railroad Company, a corporation organized and existing under the laws of the State of Iowa, (hereinafter termed the Des Moines & St. Louis Company), the Wabash Railroad Company, a corporation organized and existing under the Laws of the State of Missouri (hereinafter termed the Wabash Company), and the Des Moines, Northern & Western Railroad Company, a corporation organized and existing under the Laws of the State of Iowa, (hereinafter termed the Des Moines, Northern & Western Company) Witnesseth: That

Whereas the said Des Moines Company is the owner of a railway system in and about the City of Des Moines, Iowa, which system consists of valuable terminal facilities in the said City of Des Moines as hereinafter described; and

Whereas, the Des Moines & St. Louis Company is the owner of a line of railway terminating in the City of Des Moines; and

Whereas, the said Wabash Company operates the line of the said Des Moines & St. Louis Company under lease; and

Whereas the Des Moines, Northern & Western Company is the owner of and operates a line of railway terminating in the said City of Des Moines; and

770 Whereas, in order to prevent unnecessary expense, inconvenience, and loss, and in order to facilitate the public convenience and safety, it has become, for the mutual interest of the parties hereto, that the Des Moines & St. Louis Company, the Wabash Company and the Des Moines, Northern & Western Company shall have the use of the terminal facilities of the Des Moines Company as hereinafter prescribed and provided;

Now Therefore, in consideration of the premises and the mutual covenants and agreements herein contained, it is agreed by and between the parties hereto, each for itself and not jointly, as follows, to-wit:

Section 1. The Des Moines Company grants to the Des Moines & St. Louis Company, the Wabash Company, operating the said Des Moines & St. Louis Railroad, and the Des Moines Northern & Western Company, the use (in common with such railway companies as heretofore have or may hereafter enter into contract with the Des Moines Company) of its railway system, consisting of the terminal property aforesaid, including main and side-tracks, passenger and freight depots, depot grounds, lands, yards, shops, round houses and transfers, and all betterments, renewals, improvements and additions to the same, until May 1st, 1918.

771 Provided, however, that this grant shall not be construed to embrace any lands, tracks, yards, transfers or depots, of which the said Des Moines Company may heretofore have granted or may hereafter grant the sole and exclusive use to another railway company or other railway companies. It is, however, understood and agreed that any such exclusive grant hereafter made shall not interfere with the reasonable use by the grantees herein of the said terminal facilities as they now exist.

Provided further, that such use shall at all times be subject to the reasonable regulation and control of the said Des Moines Company, which shall at all times manage and operate said terminal property in the interest and for the benefit of such railway companies as have acquired or may hereafter acquire the right to use the same.

And said Des Moines Company agrees to keep and maintain its said railway system in good condition and repair, and to provide and maintain all such engines, machinery, appliances, buildings and structures, and all such servants and employes, as shall be reasonably necessary for the conduct of its business and the moving and handling of cars, passengers and freight, for said several grantees herein named, and the housing and care of their engines; and the said Des Moines Company further agrees to switch all cars, handle all freight, house and care for all engines of the said several grantee companies, which may be delivered to it or which may come upon its said terminal property, in so far as the said companies may request it so to do.

And the said Des Moines Company further agrees that the use hereby granted of the said railway system and terminal facilities shall be without preference or unreasonable  
772 precedence for or to itself or to any of the lessees of its said terminals in the matter of train time schedules, or the handling or switching of cars and trains and occupancy of depots, or the occupancy of said property or any part thereof, or in the service herein agreed to be performed; always, however, subject to such reasonable control and discretion by the said Des Moines Company as may be necessary to avoid confusion and expedite the management of its business.

Section 2. The aggregate amount to be paid by the said Des Moines & St. Louis Company, the Wabash Company and the Des Moines, Northern & Western Company to the Des Moines Company for the use hereinbefore granted and the services so to be performed, shall be ascertained as follows, to-wit:

1st. There shall be ascertained the amount required to pay five per cent. interest annually upon the mortgage bonds of the said Des Moines Company, whether now or hereafter issued, one-twelfth of which, less any deduction hereinafter provided for, shall be payable monthly as herein specified.

2nd. At the expiration of each month, or as soon thereafter as practicable, there shall be ascertained the expense of maintaining renewing and repairing the property of the said Des Moines Company, including the maintenance, renewal, and repair of tracks, depots, round houses, shops, engine houses, tools, yards, transfers, etc., during the preceding month. And

in like manner there shall be ascertained the taxes or assessments, general or special, levied upon or against the property of the said Des Moines Company and paid during the preceding month, or to be paid during the next succeeding month, and the insurance, if any, paid during the preceding month, or to be paid during the next succeeding month.

3rd. There shall be likewise ascertained the costs and expenses of every nature connected with the operation of the railway system of the said Des Moines Company, including the operation of its main and side-tracks, freight and passenger depots, depot grounds, yards, transfers, shops, round houses and other properties, which is to include every liability created and every item of expense or disbursement incurred or made by the said Des Moines Company, whether herein specifically mentioned or not, including interest upon any floating debt, except the expense specified in section 7 hereof.

Section 3. Having so ascertained the monthly aggregate of all the items and sums mentioned in the preceding section, which shall embrace every item of expense or liability of whatsoever name or character, there shall be deducted therefrom the amount, if any, which other railway companies may be under obligation to pay by virtue of contracts for the use of said property, or parts thereof, for the preceding month, and the remainder shall be paid by the Des Moines & St. Louis Company, the Wabash Company and the Des Moines, Northern & Western Company (in the gold coin of the United States of or equal to the present standard of weight of fineness) in the proportion that the wheelage of each of said tenant companies bears to the entire wheelage of all of said companies during such preceding month. And it is expressly understood and agreed that none of the revenues of the Des Moines Company whether derived from rentals, tolls, switching services performed, or otherwise, except the rentals from other railway companies using said terminals or a portion thereof shall be deducted for the purpose of ascertaining the fair monthly aggregate.

The said Wabash Company for itself agrees to make the payment hereinbefore provided for at the times and in the manner prescribed so long as it operates the railroad of the said Des Moines & St. Louis Company, and when the said Wabash Company ceases to operate the railroad of the Des Moines & St. Louis Company its obligation to so pay, and all the obligations herein assumed by it shall at once determine and be and become the obligations of whatever company operates the said railroad; it being the intention that the obligations of this lease, so far as they pertain to the Des Moines & St.

Louis Railroad, shall attach to and become the obligations of the successor of the said Wabash Company in the operation of the said Des Moines & St. Louis Railroad, and any company succeeding the Wabash Company in such operation shall be held by the operation of trains over the said Des Moines & St. Louis Railroad, and upon the property hereby leased, to assume all the obligations herein undertaken by either the said Des Moines & St. Louis Company or the said Wabash Company.

And it is further agreed that the obligations herein assumed by the Des Moines, Northern & Western Company shall pass with the railroad it now owns and operates, and shall become the obligations of any assignee, grantee or successor of the said Des Moines, Northern & Western Company in the  
775 ownership or operation of the said Des Moines, Northern and Western Railroad.

And any company succeeding the Des Moines Northern & Western Company in such ownership or operation shall be held by the operation of trains over the said Des Moines, Northern & Western Railroad and upon the property hereby leased, to assume all the obligations herein undertaken by said Des Moines, Northern & Western Company.

Section 4. If the amount, or any part thereof, due from any other railroad company or companies for the use of the property herein demised, or any part thereof, shall not be paid when due, then the sum so due and unpaid shall on demand of the said Des Moines Company be paid to it by the tenant companies under this agreement on a wheelage basis as hereinbefore defined.

Section 5. The said Des Moines Company shall, on or before the tenth day of each month, or as soon thereafter as practicable, make out and present to each of the tenant companies herein an account showing the amount due from them respectively for the preceding month, and payment thereof shall be made within five days thereafter. All claimed omissions or errors in said accounts, or exceptions thereto, which may be taken by the tenant companies, shall be subsequently adjusted between the parties, but shall not delay the prompt payment of the accounts as rendered by the Des Moines Company.

Section 6. It is further agreed that if any one of the tenant companies herein named shall for any reason fail or refuse, for a period of thirty days after the same has become due  
776 and has been demanded, to pay the sum or sums due from it under this contract as aforesaid, then the said Des Moines Company may take from any moneys in its hands

belonging to the said defaulting Company, or in the hands of its agents the amount of said sum or sums, and apply sufficient thereof to meet said demand or demands. Should the sum in the hands of the said Des Moines Company or its agents be insufficient to meet the amount due under this agreement, and the same shall still remain unpaid, said Des Moines Company shall have the right to exclude the said delinquent tenant from said premises, and the company so failing to pay shall at the option of the said Des Moines Company, forfeit all rights under this agreement and the said Des Moines Company may thereupon, with the consent of the remaining tenant companies herein, transfer and assign the rights of the company so failing, to any other party or parties, for such sum as it may determine, and the same may be thereafter held and enjoyed by said assignee or assignees; but it is understood and agreed that nothing herein shall prevent the said Des Moines Company from enforcing its claim or claims, against any delinquent lessee or lessees, by any proper action, either at law or in equity, to recover any amount which may be at any time due and unpaid, in the event that the said Des Moines Company shall so elect.

Section 7. The cost and expense of operating the engine houses and their appurtenances, and each of them, including the cost of turning and housing engines, furnishing water and sand, and of wiping and washing and firing up, shall be borne by each of the tenant companies herein named in such proportion as the number of road engines of each company in and out of said engine house during the period for which said cost and expense is made up bears to all the engines of the tenant companies in and out of the same.

All repairs to engines & cars shall be charged for and paid by each of said companies for which the work is done on the basis of actual cost of labor and material, and all services rendered, supplies and labor furnished to any of the tenant companies parties hereto for their own benefit, and which are not properly a portion of the joint expenses, shall be charged directly to said company on such equitable terms as may be agreed upon between the Superintendent of the Des Moines Company and the Superintendent of the Company to which the service is rendered.

Section 8. The said terminal property hereby leased shall be used by the said tenant companies for all their trains entering or departing from the said City of Des Moines, Iowa.

Section 9. The said Des Moines Company shall make, publish and enforce such rules and regulations for the use, management and operation of the said terminal property by all of the

tenant companies using the same as it from time to time may consider prudent and necessary.

Section 10. The Des Moines Company shall keep accurate books of account of the various items of interest, insurance, taxes, construction, improvement, operation, maintenance and repairs, and other disbursements upon and about the premises embraced in this agreement, and said books shall show  
778 the amount of work done for and fuel or other material furnished to each of the said tenant companies, and the amount of fuel or other material received from each of said companies; and said books shall give such other details as will at all times enable the said tenant companies to make accurate settlements of their accounts as provided for in this agreement; and said books may at all proper and reasonable hours be examined and inspected by the respective Superintendents, Auditors or Treasurers of said tenant companies, or by an authorized accountant.

Section 11. The said Des Moines Company shall also keep an accurate record of all the engines and cars of each tenant company arriving at and departing from said terminal station or said depot grounds, transfers and yards, and the cars of foreign roads that may be switched onto or from said terminals, for the benefits of the said tenant companies or others, and of all the engines which have been housed in said engine houses in each month; and as hereinbefore provided, said Des Moines Company shall furnish to the said tenant companies a full, true and detailed statement of all the expenditures made, and of all the fuel and other supplies used, delivered and received, of all the cars and engines received, handled or switched, all work done or repairs made, and of all the engines housed and other expenses connected with the operation of said property during the month next preceding.

Section 12. All damages which may be received by any  
779 engine or engines, car or cars, while being moved by the said Des Moines Company for the aforesaid tenant companies or either of them at or upon any part of the premises embraced in this agreement shall be repaired by the Des Moines Company, and the cost of such repairs shall be borne and paid by the said tenant companies on a wheelage basis.

Section 13. All damages to property caused by any engine or engines, car or cars of the said tenant companies occupying said terminals while being switched, managed and controlled or under the management and control of the Des Moines Company, or by any imperfection in the track or tracks laid on said premises, and all injuries which may at any time be

received by any person or persons, including employees, in, about, around or upon said terminal station, depot grounds, tracks, yards, shops, round houses, transfers, etc., caused through or by the said Des Moines Company or any of its agents, officers or servants, shall, if settled at all, be adjusted and settled by said Des Moines Company, and the sum thus paid in settlement or settlements, or as damages if not settled, shall be considered as a part of the expenses of operating said terminals, and shall be divided and paid upon said wheelage basis as herein defined.

Provided, however, that the said tenant companies and each of them using said terminal facilities hereunder, shall at its own cost and expense bear, settle, and pay all damages to property belonging to the parties hereto or to third parties, and all injuries to persons when said damages or injuries are done to or by its own trains while said trains are being moved by its own engines and are being operated and controlled by its own crews, unless such damages or injuries are occasioned by the act, neglect or fault of the employees or servants of the said Des Moines Company or by some imperfection in its track or tracks, machinery, tools, appliances, apparatus, etc.; and in case such damages or injuries are so occasioned by the act, negligence or fault of the servants of the said Des Moines Company, or by any imperfection in its said tracks, machinery, tools, appliances, apparatus, etc., then said payment or payments shall be made by the said Des Moines Company, and shall be considered as a part of the expenses of said terminals, and shall be divided and paid upon a wheelage basis as herein defined.

Section 14. It is further agreed by and between the said Des Moines Company and each of said tenant companies that either of said tenant companies may sell, assign and transfer to any one railway company all its right under this agreement, or it may mortgage to any one party all its interest and right under this contract; but it shall not subdivide, sublet, mortgage or assign to any other company or person a portion of its said rights and privileges herein, and any assignment mortgage or lease made by any one of said tenant companies which may be held sufficient to admit its assignee, mortgagee, or lessee or their assigns to the possession of said property shall be held sufficient to exclude and shall exclude the company making such lease, mortgage or assignment from its rights and privileges in and upon said property under this contract; but this clause shall not be so construed as to prevent either of said tenant companies from contracting

to do the business or handling with its own engines the traffic or cars of any other railroad company to and from said city upon such terms as the said Des Moines Company may approve, provided the line of such other railroad company connects with the line of such tenant company not less than twenty miles from said City of Des Moines.

~~Section 15. Whereas, the several tenant companies herein named have obligated themselves severally to pay as a part of the compensation for the use of said premises a sum sufficient to pay the interest on the whole number of bonds issued and used or to be hereafter issued and used by said Des Moines Company in purchasing, improving and equipping the terminal properties herein described.~~

~~Now Therefore, in consideration of the premises, the said Des Moines Company hereby agrees to and with each of the said tenant companies that it will not at any time hereafter issue or dispose of any of its said bonds except for the purpose of purchasing with them or their proceeds additional terminal property, or for improving or equipping that now owned by it in the said City of Des Moines or vicinity.~~

Section 15. Interest on bonds hereafter issued by the Des Moines Company shall not be reckoned under the first paragraph of section two hereof unless such bonds were issued with the consent of the party sought to be charged with such interest.

Section 16. The Directors of the Des Moines Company shall annually appoint an Executive Committee upon which the Wabash Company shall have a representative (to be selected by it) so long as said Wabash Company uses the terminal property hereunder.

Section 17. The salaries and wages paid to the officers, superintendents, agents, and employes of the Des Moines Company shall not be greater than the salaries and wages commonly paid for similar services in said locality; and for good cause shown the Des Moines Company shall discharge any superintendent, agent, or employe upon the written request of either of the tenant companies.

Section 18. It is further understood and agreed that this contract is entered into in lieu of and as a substitute for a certain agreement entered into on the 10th day of May, 1889, between the Des Moines Union Railway Company, the Des Moines & St. Louis Railroad Company, the Des Moines & Northwestern Railway Company, and the St. Louis, Des Moines & Northern Railway Company, and the

said last named agreement is by the execution hereof forever terminated and all pending or unsettled accounts shall be settled and paid hereunder, and for the purpose of quieting all controversy with respect to the full execution and performance of the said last named contract by each of the parties thereto it is stipulated and agreed that the same has been fully performed, and that the capital stock of the said Des Moines Union Railway Company therein mentioned is now rightfully held as follows: to-wit:

The Purchasing Committee of the Wabash, St. Louis & Pacific Railway Company, ..... 500 Shares  
The Des Moines, Northern & Western Railroad Company, ..... 1000 Shares  
F. M. Hubbell & Son, ..... 2500 Shares

Of the above shares belonging to said Purchasing Committee two shares stand upon the books of the Company as follows: Joseph Ramsey, Jr., One Share, and H. L. Magee One Share.

Of the shares belonging to the Des Moines, Northern & Western Railroad Company two shares stand upon the books of the Company as follows: A. B. Cummins One Share, F. M. Hubbell One Share.

Of the shares belonging to the said F. M. Hubbell & Son five shares stand upon the books of the Company as follows:  
783 F. M. Hubbell, one share H. D. Thompson, one share  
F. C. Hubbell, one share A. N. Denman, one share  
C. Huttenlocher, one share.

In Witness Whereof, the respective parties hereto have caused these presents to be signed by their respective Presidents and sealed with their corporate seals and attested by their respective Secretaries the day and year first above written.

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**Defendants' Exhibit 383.**

Exhibit B to deposition of Albert B. Cummins.  
(Original Draft of D. M. U. Co. Contract with  
Wabash & D. M. N. & W.)

This Agreement, made and entered into this 3d day of February, 1897, by and between the Des Moines Union Railway Company, a corporation organized and existing under the laws of the State of Iowa, (hereinafter termed the Des Moines Company), the Des Moines & St. Louis Railroad Company, a corporation organized and existing under the laws of the State of Iowa (hereinafter termed the Des Moines & St. Louis Company), the Wabash Railroad Company, a corporation organized and existing under the laws of the State of Missouri, (hereinafter termed the Wabash Company), and the Des Moines, Northern & Western Railroad Company, a corporation organized and existing under the laws of the State of Iowa (hereinafter termed the Des Moines, Northern & Western Company), Witnesseth: That

Whereas the said Des Moines Company is the owner of a railway system in and about the City of Des Moines, Iowa, which system consists of valuable terminal facilities in the said City of Des Moines as hereinafter described; and

Whereas the Des Moines & St. Louis Company is the owner of a line of railway terminating in the City of Des Moines; and

Whereas the said Wabash Company operates the line of the said Des Moines & St. Louis Company under lease; and

Whereas the Des Moines, Northern & Western Company is the owner of and operates a line of railway terminating in the said City of Des Moines; and Whereas, in order to prevent unnecessary expense, inconvenience and loss, and in order to facilitate the public convenience and safety, it has become for the mutual interest of the parties hereto that the Des Moines & St. Louis Company, the Wabash Company and the Des Moines, Northern & Western Company shall have the use of the terminal facilities of the Des Moines Company as hereinafter prescribed and provided;

Now Therefore, in consideration of the premises and the mutual covenants and agreements herein contained, it is agreed by and between the parties hereto, each for itself and not jointly, as follows, to-wit:

Section 1. The Des Moines Company grants to the Des Moines & St. Louis Company, the Wabash Company, operating the said Des Moines & St. Louis Railroad, and the Des Moines, Northern & Western Company, the use (in common with such railway companies as heretofore have or may hereafter enter into contract with the Des Moines Company) of its railway system, consisting of the terminal property aforesaid, including

main and side-tracks, passenger and freight depots, depot grounds, lands, yards, shops, round houses and transfers, and all betterments, renewals, improvements and additions to the same, until May 1st, 1918.

Provided, however, that this grant shall not be construed to embrace any lands, tracks, yards, transfers or depots of which the said Des Moines Company may heretofore have granted or may hereafter grant the sole and exclusive use to another railway company or other railway companies. It is, however, understood and agreed that any such exclusive grant hereafter made shall not interfere with the reasonable use by the grantees herein of the said terminal facilities as they now exist.

786 Provided further, that such use shall at all times be subject to the reasonable regulation and control of the said Des Moines Company, which shall at all times manage and operate said terminal property in the interest and for the benefit of such railway companies as have acquired or may hereafter acquire the right to use the same.

And said Des Moines Company agrees to keep and maintain its said railway system in good condition and repair, and to provide and maintain all such engines, machinery, appliances, buildings and structures, and all such servants and employes, as shall be reasonably necessary for the conduct of its business and the moving and handling of cars, passengers and freight, for said several grantees herein named, and the housing and care of their engines; and the said Des Moines Company further agrees to switch all cars, handle all freight, house and care for all engines of the said several grantee companies, which may be delivered to it or which may come upon its said terminal property, in so far as the said companies may request it so to do.

And the said Des Moines Company further agrees that the use hereby granted of the said railway system and terminal facilities shall be without preference or unreasonable precedence for or to itself or to any of the lessees of its said terminals in the matter of train time schedules, or the handling or switching of cars and trains and occupancy of depots, or the occupancy of said property or any part thereof, or in the service herein agreed to be performed; always, however, subject to such reasonable control and discretion by the  
787 said Des Moines Company as may be necessary to avoid confusion and expedite the management of its business.

**Section 2.** The aggregate amount to be paid by the said Des Moines & St. Louis Company, the Wabash Company and the Des Moines, Northern & Western Company to the Des Moines Company for the use hereinbefore granted and the services to be performed, shall be ascertained as follows, to-wit:

1st. There shall be ascertained the amount required to pay five per cent. interest annually upon the mortgage bonds of the Des Moines Company, whether now or hereafter issued, one-twelfth of which, less any deduction hereinafter provided for, shall be payable monthly as herein specified.

2nd. At the expiration of each month, or as soon thereafter as practicable, there shall be ascertained the expenses of maintaining renewing and repairing the property of the said Des Moines Company, including the maintenance renewal and repair of tracks, depots, round houses, shops, engine houses, tools, yards, transfers, etc., during the preceding month. And in like manner there shall be ascertained the taxes or assessments, general or special, levied upon or against the property of the said Des Moines Company and paid during the preceding month, or to be paid during the next succeeding month, and the insurance, if any, paid during the preceding month, or to be paid during the next succeeding month.

3rd. There shall be likewise ascertained the costs and expenses of every nature connected with the operation of the railway system of the said Des Moines Company, including the operation of its main and side-tracks, freight and passenger depots, depot grounds, yards, transfers, shops, round houses and other properties, which is to include every liability created and every item of expense or disbursement incurred or made by the said Des Moines Company, whether herein specifically mentioned or not, including interest upon the (any) floating debt except the expense specified in Section 7 hereof.

**Section 3.** Having so ascertained the monthly aggregate of all the items and sums mentioned in the preceding section, which shall embrace every item of expense or liability of whatsoever name or character, there shall be deducted therefrom the amount, if any, which other railway companies may be under obligation to pay by virtue of contracts for the use of said property, or parts thereof, for the preceding month, and the remainder shall be paid by the Des Moines & St. Louis Company, the Wabash Company and the Des Moines Northern & Western Company in the proportion that the wheelage of each of said tenant companies bears to the entire wheelage of all of said companies during such preceding month.

The said Wabash Company for itself agrees to make the payment hereinbefore provided for at the times and in the manner prescribed so long as it operates the railroad of the said Des Moines & St. Louis Company, and when the said Wabash Company ceases to operate the railroad of the Des Moines & St. Louis Company its obligation to so pay, and all the obligations herein assumed by it shall at once determine and be and become the obligations of whatever company operates the said railroad; it being the intention that the obligations of this lease, so far as they pertain to the Des Moines & St. Louis Railroad, shall attach to and become the obligations of the successor of the said Wabash Company in the operation of the said Des Moines & St. Louis Railroad, and any company succeeding the Wabash Company in such operation shall be held, by the operation of trains over the said Des Moines & St. Louis Railroad, and upon the property hereby leased, to assume all the obligations herein undertaken by either the said Des Moines & St. Louis Company or the said Wabash Company.

And it is further agreed that the obligations herein assumed by the Des Moines, Northern & Western Company shall pass with the railroad it now owns and operates, and shall become the obligations of any assignee, grantee or successor of the said Des Moines, Northern & Western Company in the ownership or operation of the said Des Moines, Northern & Western Railroad.

Section 4. If the amount, or any part thereof, due from any other railroad company or companies for the use of the property herein demised, or any part thereof, shall not be paid when due, then the sum so due and unpaid shall on demand of the said Des Moines Company be paid to it by the tenant companies under this agreement on a wheelage basis as hereinbefore defined.

Section 5. The said Des Moines Company shall, on or before the tenth day of each month, or as soon thereafter as practicable, make out and present to each of the tenant companies herein an account showing the amount due from them respectively for the preceding month, and payment thereof shall be made within five days thereafter. (All claimed omissions or errors in said accounts, or exceptions thereto, which may be taken by the tenant companies or either of them, shall be subsequently adjusted between the parties, but shall not delay the prompt payment of the accounts as rendered by the Des Moines Company.)

Section 6. It is further agreed that if any one of the tenant companies herein named shall for any reason fail or re-

fuse, for a period of thirty days after the same has become due and has been demanded, to pay the sum or sums due from it under this contract as aforesaid, then the said Des Moines Company may take from any moneys in its hands belonging to the said defaulting company or in the hands of its agents the amount of said sum or sums, and apply sufficient thereof to meet said demand or demands. Should the sum in the hands of the said Des Moines Company or its agents be insufficient to meet the amount due under this agreement, and the same shall still remain unpaid, said Des Moines Company shall have the right to exclude the said delinquent tenant from said premises, and the company so failing to pay shall, at the option of the said Des Moines Company forfeit all rights under this agreement, and the said Des Moines Company may thereupon, with the consent of the remaining tenant companies herein, transfer and assign the rights of the company so failing to any other party or parties for such sum as it may determine, and the same may be thereafter held and enjoyed by said assignee or assignees; but it is understood and agreed that nothing herein shall prevent the said Des Moines  
 791 Company from enforcing its claim or claims against any delinquent lessee or lessees by any proper action, either at law or in equity, to recover any amount which may be at any time due and unpaid, in the event that the said Des Moines Company shall so elect.

Section (7). The cost and expense of operating the engine houses and their appurtenances, and each of them, including the cost of turning and housing engines, furnishing water and sand, and of wiping and washing and firing up, shall be borne by each of the tenant companies herein named in such proportion as the number of road engines of each company in and out of said engine house during the period for which said cost and expense is made up (bears to all the engines of the tenant companies in and out of the same)

792 All repairs to engines & cars shall be charged for and paid by each of said companies for which the work is done on the basis of actual cost of labor and material, and all services and facilities rendered, supplies and labor furnished to any of the tenant companies parties hereto for their own benefit, and which are not properly a portion of the joint expenses, shall be charged directly to said company on such equitable terms as may be agreed upon between the Superintendent of the Des Moines Company and the Superintendent of the company to which the service is rendered.

Section (8). The said terminal property hereby leased shall be used by the said tenant companies for all their trains entering or departing from the said City of Des Moines, Iowa.

Section (9). The said Des Moines Company shall make, publish and enforce such rules and regulations for the use, management and operation of the said terminal property by the tenant companies using the same as it from time to time may consider prudent and necessary.

Section (10). The Des Moines Company shall keep accurate books of account of the various items of interest, insurance, taxes, construction, improvement, operation, maintenance and repairs and other disbursements upon and about the premises embraced in this agreement, and said books shall show the amount of work done for and fuel or other material furnished to each of the said tenant companies, and the amount of fuel or other material received from each of said companies; 203

and said books shall give such other details as will at all times enable the said tenant companies to make accurate settlements of their accounts as provided for in this agreement; and said books may at all proper and reasonable hours be examined and inspected by the respective Superintendent, Auditors, or Treasurers of said tenant companies, or by an authorized accountant.

Section (11). The said Des Moines Company shall also keep an accurate record of all the engines and cars of each tenant company arriving at and departing from said terminal station or said depot grounds, transfers and yards, and the cars of foreign roads that may be switched onto or from said terminals, for the benefit of the said tenant companies or others, and of all the engines which have been housed in said engine houses in each month; and as hereinbefore provided, said Des Moines Company shall furnish to the said tenant companies a full, true and detailed statement of all the expenditures made, and of all the fuel and other supplies used, delivered and received, of all the cars and engines received, handled or switched, of all work done or repairs made, and of all the engines housed and other expenses connected with the operation of said property during the month next preceding.

Section (12). All damages which may be received by any engine or engines, car or cars, while being moved by the said Des Moines Company for the aforesaid tenant companies or either of them at or upon any part of the premises embraced in this agreement shall be repaired by the Des Moines 204 Company, and the cost of such repairs shall be borne and paid by the said tenant companies on a wheelage basis.

Section (13). All damages to property caused by any engine or engines, car or cars of the said tenant companies occupying said terminals while being switched, managed and

controlled or under the management and control of the Des Moines Company, or by any imperfection in the track or tracks laid on said premises, and all injuries which may at any time be received by any person or persons, including employes, in, about, around or upon said terminal station, depot grounds, tracks, yards, shops, round houses, transfers, etc., caused through or by the said Des Moines Company or any of its agents, officers or servants, shall, if settled at all, be adjusted and settled by said Des Moines Company, and the sums thus paid in settlement or settlements, or as damages if not settled, shall be considered as a part of the expenses of operating said terminals, and shall be divided and paid upon said wheelage basis as herein defined.

Provided, however, that the said tenant companies and each of them using said terminal facilities hereunder, shall at its own cost and expense bear, settle and pay all damages to property belonging to the parties hereto or to third parties, and all injuries to persons when said damages or injuries are done to or by its own trains while said trains are being moved by its own engines and are being operated and controlled by its own crews, unless such damages or injuries are occasioned by the act, neglect or fault of the employes or servants of the said Des Moines Company or by some imperfection in its track or tracks, machinery, tools, appliances, apparatus, etc.; and in case such damages or injuries are so occasioned by the act, negligence or fault of the servants of the said Des Moines Company, or by any imperfection in its said tracks, machinery, tools, appliances, apparatus, etc., then said payment or payments shall be made by the said Des Moines Company, and shall be considered as a part of the expenses of said terminals, and shall be divided and paid upon a wheelage basis as herein defined.

Section (14). It is further agreed by and between the said Des Moines Company and each of said tenant companies that either of said tenant companies may sell, assign and transfer to any one railway company all its right under this agreement or it may mortgage to any one party all its interest and right under this contract; but it shall not subdivide, sublet, mortgage or assign to any other company or person a portion of its said rights and privileges herein, and any assignment, mortgage or lease made by any one of said tenant companies which may be held sufficient to admit its assignee, mortgagee or lessee or their assigns to the possession of said property shall be held sufficient to exclude and shall exclude the company making such lease, mortgage or assignment from its rights and privileges in and upon said property under this contract; but this

clause shall not be so construed as to prevent either of said tenant companies from contracting to do the business or handling with its own engines the traffic or cars of any other railroad company to and from said city upon such terms as the  
796 said Des Moines Company may approve, provided the line of such other railroad company connects with the line of such tenant company not less than twenty miles from said City of Des Moines.

Section (15) Whereas the several tenant companies herein named have obligated themselves severally to pay as a part of the compensation for the use of said premises a sum sufficient to pay the interest on the whole number of bonds issued and used or to be hereafter issued and used by said Des Moines Company in purchasing, improving and equipping the terminal properties herein described.

Now, therefore, in consideration of the premises, the said Des Moines Company hereby agrees to and with each of the said tenant companies that it will not at any time hereafter issue or dispose of any of its said bonds except for the purpose of purchasing with them or their proceeds additional terminal property or for improving or equipping that now owned by it in the said City of Des Moines or vicinity.

Section (16) It is further understood and agreed that this contract is entered into in lieu of and as a substitute for a certain agreement entered into on the 10th day of May, 1889, between the Des Moines Union Railway Company, the Des Moines & St. Louis Railroad Company, the Des Moines & Northwestern Railway Company and the St. Louis, Des Moines & Northern Railway Company, and the said last named agreement is by the execution hereof forever terminated, and all pending or unsettled accounts shall be settled and paid hereunder and for the purpose of quieting all controversy with respect to the full execution and performance of the said last named contract by each of the parties thereto it is stipulated  
and agreed that the same has been fully performed  
797 and that the capital stock of the said Des Moines Union Railway Company therein mentioned is now rightfully held as follows, to-wit:

The Purchasing Committee of the Wabash, St. Louis & Pacific Railway Company, 500 shares.

The Des Moines, Northern & Western Railroad Company, 1,000 shares.

F. M. Hubbell & Son, 2,500 shares.

Of the above shares belonging to the said Purchasing Committee two shares stand upon the books of the Company as

follows: Joseph Ramsey, Jr., one share. H. L. Magee one share.

Of the shares belonging to the said Des Moines, Northern & Western Railroad Company two shares stand upon the books as follows:

A. B. Cummins, one share.

L. M. Martin, one share.

Of the shares belonging to the said F. M. Hubbell & Son five shares stand upon the books of the Company as follows:

F. M. Hubbell, one share.

F. C. Hubbell, one share.

H. D. Thompson, one share.

A. N. Denman, one share.

C. Huttenlocher, one share.

798 In Witness Whereof the respective parties hereto have caused these presents to be signed by their respective Presidents and sealed with their corporate seals and attested by their respective Secretaries, the day and year first above written.

799

#### **Defendants' Exhibit 384.**

Ex. "H" to A. B. Cummins Dep.

This Agreement made and entered into on this 21st day of July, 1897, by and between the Des Moines Union Railway Company, a corporation organized and existing under the laws of the state of Iowa (hereinafter termed the Des Moines Company), the Des Moines & St. Louis Railroad Company, a corporation organized and existing under the laws of the state of Iowa (hereinafter termed the Des Moines & St. Louis Company), the Wabash Railroad Company, a corporation organized and existing under the laws of the state of Missouri (hereinafter termed the Wabash Company), and the Des Moines Northern & Western Railroad Company, a corporation organized and existing under the laws of the state of Iowa (hereinafter termed the Des Moines Northern & Western Company)

Witnesseth, That

Whereas the said Des Moines Company is the owner of a railway system in and about the city of Des Moines, Iowa, which system consists of valuable terminal facilities in the said city of Des Moines as hereinafter described; and

## THE DES MOINES UNION RY. CO., ET AL.

Whereas, the Des Moines & St. Louis Company is the owner of a line of railway terminating in the city of Des Moines; and

Whereas, the said Wabash Company operates the line of the said Des Moines & St. Louis Company under lease; and

Whereas, the Des Moines Northern & Western Company is the owner of and operates a line of railway terminating in the said city of Des Moines; and

Whereas, in order to prevent the unnecessary expense, inconvenience and loss, and in order to facilitate the public convenience and safety, it has become necessary for the mutual interests of the parties hereto, that the Des Moines & St. Louis Company, the Wabash Company and the Des Moines Northern & Western Company shall have the use of the terminal facilities of the Des Moines Company as hereinafter prescribed and provided;

Now Therefore, in consideration of the premises and the mutual covenants and agreements herein contained, it is agreed by and between the parties hereto, each for itself and not jointly, as follows, to-wit:

Section I. The Des Moines Company grants to the Des Moines & St. Louis Company, the Wabash Company, operating the said Des Moines & St. Louis Railroad, and the Des Moines Northern & Western Company the use (in common with such railway companies as heretofore have or may hereafter enter into contract with the Des Moines Company), of its railway system, consisting of the terminal property aforesaid, including main and side tracks, passenger and freight depots, depot grounds, lands, yards, shops, round houses and transfers, and all betterments, renewals, improvements, and additions to the same, until May 1st, 1918.

801 Provided, however, that this grant shall not be construed to embrace any land, tracks, yards, transfers or depots, of which the said Des Moines Company may have heretofore granted, or may hereafter grant, the sole and exclusive use to another railway company or other railway companies. It is understood and agreed, however, that no such exclusive grant shall be hereafter made to any railroad company, or for its use, without the written consent and approval of the grantees herein, their successors or assigns. It is also agreed that no other tenant Railway company shall be hereafter admitted by said Des Moines Company to the use of said terminals, or any part thereof, upon terms different from those contained in this agreement, without the written consent of the grantees

herein, their successors or assigns. But it is agreed that said Des Moines Company shall have, subject to the conditions of this agreement, the right to make leases of such portions of said grounds and premises as are not required for railroad or terminal purposes; but no such lease shall be made, for a period of more than six months, or for the erection or operation of elevators, warehouses, coal yards or manufacturing purposes, or for other similar uses without the written consent and approval of the grantees herein, and all such leases of portions of said property shall be terminated by said Des  
 802 Moines Company at the earliest practicable day after said tenant companies, or either of them, shall have given notice of a desire to use such grounds for railroad or terminal purposes.

(The proviso just inserted is on a piece of paper pasted on to the original draft. There is at the top of this piece of paper in the handwriting of Mr. F. M. Hubbell: "Sent copy of this to W. H. Blodgett March 29, 1897", and in typewriting in parenthesis; "Proposed as a substitute for the proviso on page 2.)

Provided further, that such use shall at all times be subject to the reasonable regulation and control of the said Des Moines Company, which shall at all times manage and operate said terminal property in the interest and for the benefit of such railway companies as have acquired or may hereafter acquire the right to use the same.

And said Des Moines Company agrees to keep and maintain its said railway system in good condition and repair, and to provide and maintain all such engines, machinery appliances, buildings and structures, and all such servants and employes, as shall be reasonably necessary for the conduct of its business and the moving and handling of cars, passengers and freight, for said several grantees herein named, and the housing and care of their engines; and the said Des Moines Company further agrees to switch all cars, handle all freight, house and care for  
 803 all engines of the said several grantee companies, which may be delivered to it or which may come upon its said terminal property, in so far as the said companies may request it so to do.

And the said Des Moines Company further agrees that the use hereby granted of the said railway system and terminal facilities shall be without preference or unreasonable precedence for or to itself or to any of the lessees of its said terminals in the matter of train time schedules, or the handling

or switching of cars and trains and occupancy of depots, or the occupancy of said property or any part thereof, or in the service herein agreed to be performed; always, however, subject to such reasonable control and discretion by the said Des Moines Company as may be necessary to avoid confusion and expedite the management of its business.

Section 2. The aggregate amount to be paid by the said Des Moines & St. Louis Company, the Wabash Company and the Des Moines, Northern & Western Company to the Des Moines Company for the use hereinbefore granted and the services so to be performed, shall be ascertained as follows,

1st. There shall be ascertained the amount required to pay five per cent interest annually upon the mortgage bonds of the said Des Moines Company, whether now or hereafter issued, one-twelfth of which, less any deduction hereinafter provided for, shall be payable monthly as hereinafter specified.

2nd. At the expiration of each month, or as soon thereafter as practicable, there shall be ascertained the expense of maintaining, renewing and repairing the property of the said Des Moines Company, including the maintenance, renewal and repair of tracks, depots, round houses, shops, engine houses, tools, yards, transfers, etc., during the preceding month. And in like manner there shall be ascertained the taxes or assessments, general or special, levied upon or against the property of the said Des Moines Company and paid during the preceding month, or to be paid during the next succeeding month, and the insurance, if any, paid during the preceding month, or to be paid during the next succeeding month.

3rd. There shall be likewise ascertained the costs and expenses of every nature connected with the operation of the railway system of the said Des Moines Company, including the operation of its main and side tracks, freight and passenger depots, depot grounds, yards, transfers, shops, round houses and other properties, which is to include every liability created and every item of expense or disbursement incurred or made by the said Des Moines Company, whether herein specifically mentioned or not, including interest upon any floating debt, except the expense specified in section seven hereof.

Section 3. Having so ascertained the monthly aggregate of all the items and sums mentioned in the preceding section, which shall embrace every item of expense or liability of whatever name or character (excepting taxes, repairs and other

805 expenses on such portions of said property as the Des Moines Company may have leased, or claims the right to lease and collect and retain the rentals) there shall then be deducted therefrom the amount, if any, which other railway companies that pay upon any other than a wheelage basis, may be under obligations to pay by virtue of contracts for the use of said property, or parts thereof, and also all revenues and rentals paid by individuals or companies for the enjoyment of privileges, or the use of space at, or in the passenger station, or other buildings erected and used for railroad purposes, and all the rentals due from every company or person whatsoever, for the use of railroad tracks, facilities or privileges, for the preceding month; and the remainder shall be paid by the Des Moines & St. Louis Company, the Wabash Company and the Des Moines Northern & Western Company, in the gold coin of the United States of or equal to the present standard of weight and fineness, in the proportion that the wheelage of each of said companies bears to the entire wheelage of the tenant companies paying on a wheelage basis over said terminals during such preceding month.

And it is expressly understood and agreed, that the Des Moines Company reserves the right to switch, handle and transfer cars over said terminal tracks for other than tenant companies, to and from industries, and to and from other railroads with which its tracks connect, upon such terms and for such compensation as may be fixed by the Executive Committee; and it shall also have the right to make leases,  
806 as provided in section one hereof, of such portions of its property as are not at the time required by the lessees herein, or either of them, for railroad or terminal purposes. And the Des Moines Company shall have the right to collect, and shall collect and retain all charges due for switching, handling and transferring such cars, and also all rentals due under such leases, until the aggregate of such collections amount to the sum of fifty thousand dollars (\$50,000) and out of the sum last aforesaid, not exceeding thirty-five thousand dollars (\$35,000) shall be applied to the payment of the present floating indebtedness of said Des Moines Company, and the balance shall belong to said Des Moines Company and constitute a working fund, to be expended from time to time in improving said terminal properties, for the benefit of the parties using the same for railroad purposes, in such manner as the Executive Committee shall direct.

It is further agreed that after said sum of fifty thousand dollars shall have been realized from the sources aforesaid all revenues thereafter derived from switching, handling and

transferring cars shall be credited monthly upon the bills of the tenant companies herein and such other tenant companies as may by subsequent contract become entitled thereto and each of said tenant companies shall receive a credit for the percentage thereof that its wheelage for the month for which the credit is made, bears to the total wheelage for said month, of all the companies entitled to participate in said revenues.

But it is further understood and agreed that after said sum of fifty thousand dollars shall have been realized as aforesaid, all revenues thereafter derived from the rentals of such portions of said grounds as the Des Moines Company is herein authorized to lease, shall belong to said Des Moines Company, and shall be used in improving said terminal properties for the benefit of the parties using the same for railroad purposes, in such manner as the Executive Committee shall direct.

It is understood that the privilege reserved to the Des Moines Company of making leases of such portions of said property as are not at the time required by the lessees herein for railroad or terminal purposes, shall not be understood as including the right to grant any privileges, or the use of any space at or in the passenger station, or other buildings erected and used for railroad purposes, or the right to make any lease or contract for the use of any tracks or other railroad facilities or privileges.

(Section 3 is pasted on to the original contract, and it is not possible to read what is under it, and it is stricken out. At the top of the page in the handwriting of Mr. F. M. Hubbell there is this: "Sent copy of this to W. H. Blodgett March 29, 1897".)

The said Wabash Company for itself agrees to make the payment hereinbefore provided for at the times and in the manner prescribed so long as it operates the railroad of the said Des Moines & St. Louis Company, and when the said Wabash Company ceases to operate the railroad of the said Des Moines & St. Louis Company its obligation to so pay, and all the obligations herein assumed by it shall at once determine and be and become the obligations of whatever company operates the said railroad; it being the intention that the obligations of this lease, so far as they pertain to the Des Moines & St. Louis Railroad, shall attach to and become the obligations of the successor of the said Wabash Company in the operation of the said Des Moines & St. Louis Railroad and any company succeeding the Wabash Com-

pany in such operation shall be held by the operation of trains over the said Des Moines & St. Louis Railroad, and upon the property hereby leased, to assume all the obligations herein undertaken by either the said Des Moines & St. Louis Company or the said Wabash Company.

And it is further agreed that the obligations herein assumed by the Des Moines Northern & Western Company shall pass with the railroad it now owns and operates, and shall become the obligations of any assignee, grantee or successor of the said Des Moines Northern & Western Company in the ownership or operation of the said Des Moines Northern & Western Railroad. And any company succeeding the Des Moines Northern & Western Company in such ownership or operation shall be held by the operation of trains over the said Des Moines Northern & Western Railroad and upon the property hereby leased, to assume all the obligations herein undertaken by said Des Moines Northern & Western Company.

809 Section 4. If the amount, or any part thereof, due from any other railroad company or companies for the use of the property herein demised, or any part thereof, shall not be paid when due, then the sum so due and unpaid shall on demand of the said Des Moines Company be paid to it by the tenant companies under this agreement on a wheelage basis as hereinbefore defined.

Section 5. The said Des Moines Company, shall on or before the tenth day of each month, or as soon thereafter as practicable, make out and present to each of the tenant companies herein an account showing the amount due from them respectively for the preceding month, and payment thereof shall be made within five days thereafter. All claimed omissions or errors in said accounts, or exceptions thereto, which may be taken by the tenant companies, shall be subsequently adjusted between the parties, but shall not delay the prompt payment of the accounts as rendered by the Des Moines Company.

Section 6. It is further agreed that if any one of the tenant companies herein named shall for any reason fail or refuse, for a period of thirty days after the same has become due and has been demanded, to pay the sum or sums due from it under this contract as aforesaid, then the said Des Moines Company may take from any moneys in its hands belonging to the said defaulting company, or in the hands of its agent the amount of said sum or sums, and apply sufficient thereof

to meet said demand or demands. Should the sum in  
 810 the hands of the said Des Moines Company or its  
 agents be insufficient to meet the amount due under  
 this agreement, and the same shall still remain unpaid, said  
 Des Moines Company shall have the right to exclude the  
 said delinquent tenant company from said premises, and the  
 company so failing to pay shall at the option of the said Des  
 Moines Company, forfeit all rights under this agreement, and  
 the said Des Moines Company may thereupon, with the con-  
 sent of the remaining tenant companies herein, transfer and  
 assign the rights of the company so failing to any other party  
 or parties, for such sum as it may determine, and the same  
 may be thereafter held and enjoyed by the said assignee or  
 assignees; but it is understood and agreed that nothing here-  
 in shall prevent the said Des Moines Company from enforcing  
 its claim or claims, against any delinquent lessee or lessees,  
 by any proper action, either at law or in equity, to recover  
 any amount which may be at any time due and unpaid, in  
 the event that the said Des Moines Company shall so elect.

Section 7. The cost and expense of operating the engine  
 houses and their appurtenances, and each of them, including  
 the cost of turning and housing engines, furnishing water and  
 sand, and of wiping and washing and firing up, shall be borne  
 by each of the tenant companies herein named in such propor-  
 tion as the number of road engines of each company in and out  
 of said engine house during the period for which said  
 811 cost and expense is made up bears to all the engines of  
 the tenant companies in and out of the same.

All repairs to engines and cars shall be charged for and paid  
 by each of said companies for which the work is done on the  
 basis of actual cost thereof to the Des Moines Company, and  
 all services rendered, supplies and labor furnished to any of  
 the tenant companies parties hereto for their own benefit, and  
 which are not properly a portion of the joint expenses, shall  
 be charged directly to said company on such equal and equit-  
 able terms as may be agreed upon between the Superintendent  
 of the Des Moines Company and the Superintendents of the  
 respective companies for which the services are rendered or  
 the supplies furnished subject, however, to the approval of the  
 Executive Committee.

Section 8. The said terminal property hereby leased shall  
 be used by the said tenant companies for all their trains en-  
 tering or departing from the said City of Des Moines, Iowa.

Section (12.) Said Executive Committee subject to the ap-  
 proval of the Board shall make, publish and enforce such rules

and regulations for the use, management and operation of said terminal properties including stations, depots, depot grounds, yards and tracks, by all the parties hereto as it may from time to time consider necessary.

Section (13.) The Des Moines Company shall keep accurate books of account of the various items of interest, insurance, taxes, construction, improvement, operation, maintenance and repairs, and other disbursements upon and about the premises embraced in this agreement, and said books shall show the amount of work done for and fuel or other material furnished to each of the said tenant companies, and the amount of fuel or other material received from each of said companies; and said books shall give such other details as will at all times enable the said tenant companies to make accurate settlements of their accounts as provided in this agreement; and said books may at all proper and reasonable hours be examined and inspected by the respective superintendents, Auditors or Treasurers of said tenant companies, or by an authorized accountant.

Section (14.) The said Des Moines Company shall also keep an accurate record of all the engines and cars of each tenant company arriving at and departing from said terminal station or said depot grounds, transfers and yards and the cars of foreign roads that may be switched onto or from said terminals, for the benefits of the said tenant companies or others, and of all the engines which have been housed in said engine houses in each month; and as hereinbefore provided, said Des Moines Company shall furnish to the said tenant companies a full, true and detailed statement of all the expenditures made, and of all the fuel and other supplies used, delivered and received, of all the cars and engines received, handled or switched, of all work done or repairs made, and of all the engines housed and other expenses connected with the operation of said property during the month next preceding.

Section (15.) All damages which may be received by any engine or engines, car or cars, while being moved by the said Des Moines Company for the aforesaid tenant companies or either of them at or upon any part of the premises embraced in this agreement shall be repaired by the Des Moines Company and the cost of such repairs shall be deemed an operating expense and borne and paid by the said tenant companies on a wheelage basis.

Section (16.) All damages to property caused by any engine or engines, car or cars of the said tenant companies occupying said terminals while being switched, managed and controlled or under the management and control of the Des Moines Company, or by any imperfection in the track or tracks laid on said premises, and all injuries which may at any time be received by any person or persons, including employes, in, about, around or upon said terminal station, depot, grounds, tracks, yards, shops, round houses, transfers, etc., caused through or by the said Des Moines Company or any of its agents, officers or servants, shall if settled at all, be adjusted and settled by said Des Moines Company, and the sum thus paid in settlement or settlements, or as damages, if not settled, shall be considered as a part of the expenses of operating said terminals, and shall be divided and paid upon said wheelage basis as herein defined.

814 Provided, however, that the said tenant companies and each of them using said terminal facilities hereunder, shall at its own cost and expense bear, settle, and pay all damages to property belonging to the parties hereto or to third persons and all injuries to persons when said damages or injuries are done to or by its own trains while said trains are being moved by its own engines and are being operated and controlled by its own crews, unless such damages or injuries are occasioned by the act, neglect or fault of the employes or servants of the said Des Moines Company or by some imperfection in its track or tracks, machinery, tools, appliances, apparatus, etc., and in case such damages or injuries are so occasioned by the act, negligence or fault of the servants of the said Des Moines Company, or by any imperfection in its said tracks, machinery tools, appliances, apparatus, etc. then said payment or payments shall be made by the said Des Moines Company, and shall be considered as a part of the expenses of said terminals, and shall be divided and paid upon a wheelage basis as herein defined.

Section (17.) It is further agreed by and between the said Des Moines Company and each of said tenant companies that either of said tenant companies may sell, assign and transfer to any one railway company all its right under this agreement, or it may mortgage to any one party all its interest and right under this contract; but it shall not subdivide, sublet, mortgage or assign to any other company or person a portion of its said rights and privileges herein, and any assignment, mortgage or lease made by any one of said tenant companies which may be held sufficient to admit its as-

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signee, mortgagee or lessee or their assigns to the possession of said property shall be held sufficient to exclude and shall exclude the company making such lease, mortgage or assignment from its rights and privileges in and upon said property under this contract; but this clause shall not be so construed as to prevent either of said tenant companies from contracting to do the business or handling with its own engines the traffic or cars of any other railroad company to and from said city upon such terms as the said Des Moines Company may approve, provided the line of such other railroad company connects with the line of said tenant company not less than twenty miles from said city of Des Moines.

Section (18.) Interest on bonds hereafter issued by the Des Moines Company shall not be reckoned under the first paragraph of section two hereof unless such bonds were issued with the consent of the party sought to be charged with such interest.

816 Section (19.) It is further understood and agreed that this contract is entered into in lieu of and as a substitute for a certain agreement entered into on the 10th day of May 1889, between the Des Moines Union Railway Company, the Des Moines & St. Louis Railroad Company, the Des Moines & Northwestern Railway Company, and the St. Louis, Des Moines & Northern Railway Company, and the said last named agreement is by the execution hereof forever terminated, and for the purpose of quieting all controversies with respect to the full execution and performance of said last named contract by each of the parties thereto it is stipulated and agreed that the same has been fully performed, provided however that all unsettled claims and accounts between the parties hereto shall be adjusted and settled in like manner as though they had arisen under this agreement, and that the capital stock of the said Des Moines Union Railway Company therein mentioned is now rightfully held as follows, to-wit:

The Purchasing Committee of the Wabash St. Louis	
& Pacific Railway Company, .....	500 Shares
The Des Moines, Northern & Western Railroad	
Company, .....	1000 Shares
F. M. Hubbell & Son, .....	2500 Shares

817 Of the above shares belonging to said Purchasing Committee two shares stand upon the books of the company as follows: Joseph Ramsey, Jr.; one share, and H. L. Magee, one share.

Of the shares belonging to the Des Moines, Northern and Western Railroad Company two shares stand upon the books of the company as follows: A. B. Cummins, one share and F. M. Hubbell one share.

Of the shares belonging to the said F. M. Hubbell & Son five shares stand upon the books of the company as follows:

F. M. Hubbell, one share, H. D. Thompson one share  
F. C. Hubbell one share, A. N. Denman, one share

C. Huttenlocher, one share,

In Witness Whereof the respective parties hereto have caused these presents to be signed by their respective presidents and sealed with their corporate seals and attested by their respective secretaries the day and year first above written.

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### Defendants' Exhibit 385.

Ex. "I" to A. B. Cummins, Dep.

This Agreement, made and entered into this (21) day of (July) 1897, by and between the Des Moines Union Railway Company, a corporation organized and existing under the laws of the State of Iowa, (hereinafter termed the Des Moines Company), the Des Moines & St. Louis Railroad Company, a corporation organized and existing under the laws of the State of Iowa, (hereinafter termed the Des Moines & St. Louis Company), the Wabash Railroad Company, a corporation organized and existing under the laws of the State of Missouri (hereinafter termed the Wabash Company), and the Des Moines Northern & Western Railroad Company, a corporation organized and existing under the laws of the State of Iowa (hereinafter termed the Des Moines Northern & Western Company) Witnesseth, That

Whereas the said Des Moines Company is the owner of a railway system in and about the City of Des Moines, Iowa,

which system consists of valuable terminal facilities in the said City of Des Moines, as hereinafter described; and

Whereas the Des Moines & St. Louis Company is the owner of a line of railway terminating in the City of Des Moines; and

Whereas the said Wabash Company operates the line of the said Des Moines & St. Louis Company under lease; and

Whereas the Des Moines Northern & Western Company is the owner of and operates a line of railway terminating in the said City of Des Moines; and

Whereas in order to prevent unnecessary expense, inconvenience and loss, and in order to facilitate the public  
819 convenience and safety, it has become necessary, for the mutual interests of the parties hereto, that the Des Moines & St. Louis Company, the Wabash Company and the Des Moines, Northern & Western Company shall have the use of the terminal facilities of the Des Moines Company, as hereinafter prescribed and provided;

Now Therefore, in consideration of the premises and the mutual covenants and agreements herein contained, it is agreed by and between the parties hereto, each for itself and not jointly, as follows, to-wit:

Section I. The Des Moines Company grants to the Des Moines & St. Louis Company, the Wabash Company, operating the said Des Moines & St. Louis Railroad, and the Des Moines Northern & Western Company, the use (in common with such railway companies as heretofore have, or may hereafter enter into contract with the Des Moines Company) of its railway system, consisting of the terminal property aforesaid, including main and side tracks, passenger and freight depots, depot grounds, lands, yards, shops, round houses and transfers, and all betterments, renewals, improvements, and additions to the same, until May 1st 1918,

Provided, however, that this grant shall not be construed to embrace any lands, tracks, yards, transfers or depots, of which the said Des Moines Company may have heretofore granted, or may hereafter grant, the sole and exclusive use to another railway company or other railway companies. It is understood and agreed however, that no such exclusive grant shall be hereafter made to any railroad company, or for its use, without the written consent and approval of the grantees  
820 herein, their successors or assigns. It is also agreed that no other tenant railway company shall be hereafter admitted by said Des Moines Company to the use

of said terminals, or any part thereof, upon terms different from those contained in this agreement, without the written consent of the grantees herein, their successors or assigns. But it is agreed that the said Des Moines Company shall have, subject to the conditions of this agreement, the right to make leases of such portions of said grounds and premises as are not required for railroad or terminal purposes; but no such lease shall be made for a period of more than six months, or for the erection or operation of elevators, warehouses, coal yards, or manufacturing purposes, or for other similar uses, without the written consent and approval of the grantees herein, and all such leases of portions of said property shall be terminated by said Des Moines Company at the earliest practicable day after said tenant companies, or either of them, shall have given notice of a desire to use such grounds for railroad or terminal purposes.

Provided further, that such use shall at all times be subject to the reasonable regulation and control of the said Des Moines Company, which shall at all times manage and operate said terminal property in the interest and for the benefit of such railway companies as have acquired or may hereafter acquire the right to use the same.

And said Des Moines Company agrees to keep and maintain its said railway system in good condition and repair, and to provide and maintain all such engines, machinery, appliances, buildings and structures, and all such servants and employes, as shall be reasonably necessary for the conduct of its 821 business and the moving and handling of cars, passengers and freight, for said several grantees herein named, and the housing and care of their engines; and the said Des Moines Company further agrees to switch all cars, handle all freight, house and care for all engines of the said several grantee companies, which may be delivered to it or which may come upon its said terminal property, in so far as the said companies may request it so to do.

And the said Des Moines Company further agrees that the use hereby granted of the said railway system and terminal facilities shall be without preference or unreasonable precedence for or to itself or to any of the lessees of its said terminals in the matter of train time schedules, or the handling or switching of cars and trains and occupancy of depots, or the occupancy of said property or any part thereof, or in the service herein agreed to be performed; always, however, subject to such reasonable control and discretion by the said Des Moines Company as may be necessary to avoid confusion and expedite the management of its business.

Section II. The aggregate amount to be paid by the said Des Moines & St. Louis Company, the Wabash Company and the Des Moines, Northern & Western Company to the Des Moines Company for the use hereinbefore granted and the services so to be performed, shall be ascertained as follows, to-wit:

1st. There shall be ascertained the amount required to pay five per cent. interest annually upon the mortgage bonds of the said Des Moines Company, whether now or hereafter issued, one-twelfth of which, less any deduction herein-  
822 after provided for, shall be payable monthly as herein-  
after specified.

2nd. At the expiration of each month, or as soon thereafter as practicable, there shall be ascertained the expense of maintaining, renewing and repairing the property of the said Des Moines Company, including the maintenance, renewal, and repair of tracks, depots, round houses, shops, engine houses, tools, yards, transfers, etc. during the preceding month. And in like manner there shall be ascertained the taxes or assessments, general or special, levied upon or against the property of the said Des Moines Company and paid during the preceding month, or to be paid during the next succeeding month, and the insurance, if any, paid during the preceding month, or to be paid during the next succeeding month.

3rd. There shall be likewise ascertained the costs and expenses of every nature connected with the operation of the railway system of the said Des Moines Company, including the operation of its main and side tracks, freight and passenger depots, depot grounds, yards, transfers, shops, round houses and other properties, which is to include every liability created and every item of expense or disbursement incurred or made by the said Des Moines Company, whether herein specifically mentioned or not, including interest upon any floating debt, except the expense specified in section seven hereof.

Section III. Having so ascertained the monthly aggregate of all the items and sums mentioned in the preceding section, which shall embrace every item of expense or liability of whatsoever name or character (excepting taxes, repairs and

823 other expenses on such portions of said property as the

Des Moines Company may have leased, or claims the right to lease and collect and retain the rentals), there shall then be deducted therefrom the amount, if any, which other railway companies that pay upon any other then a wheelage basis, may be under obligations to pay by virtue of contracts for the use of the property, of said Des Moines Co. or parts thereof, including all rentals to be paid by the Chicago &

Great Western Ry. Co. and also all revenues and rentals paid by individuals or companies for the enjoyment of privileges, or the use of space at, or in the passenger station, or other buildings erected and used for railroad purposes, and all the rentals due from every company or person whomsoever, for the use of railroad tracks, facilities or privileges, for the preceding month; and the remainder shall be paid by the Des Moines & St. Louis Company, the Wabash Company, the Des Moines Northern & Western Company, in the gold coin of the United States of America, of or equal to the present standard of weight and fineness, in the proportion that the wheelage of each of said companies bears to the entire wheelage of the tenant companies paying on a wheelage basis over said terminals during such preceding month.

And it is expressly understood and agreed, that the Des Moines Company reserves the right to switch, handle and transfer cars over said terminal tracks for other than tenant companies, to and from industries, and to and from other railroads with which its tracks connect, upon such terms and for such compensation as may be fixed by the Executive Committee; and it shall also have the right to make leases, as provided in section one hereof, of such portions of its property as are not at the time required by the lessees herein, or either of them, for railroad or terminal purposes.

And the Des Moines Company shall have the right to collect, and shall collect and retain all charges due for switching, handling and transferring such cars, and also all rentals due under such leases, until the aggregate of such collections amount to the sum of fifty thousand dollars (\$50,000.) and out of the sum last aforesaid, not exceeding thirty-five thousand dollars (\$35,000.) shall be applied to the payment of the present floating indebtedness of said Des Moines Company, and the balance shall belong to said Des Moines Company and constitute a working fund, to be expended from time to time in improving said terminal properties, for the benefit of the parties using the same for railroad purposes, in such manner as the Executive Committee shall direct.

It is further agreed that after said sum of fifty thousand dollars shall have been realized from the sources aforesaid all revenues thereafter derived from switching, handling and transferring cars shall be credited monthly upon the bills of the tenant companies herein and such other tenant companies as may by subsequent contract become entitled thereto and each of said tenant companies shall receive a credit for the percentage thereof that its wheelage for the month for which the credit is made bears to the total wheelage for said month, of all the companies entitled to participate in said revenues.

But it is further understood and agreed that after said sum of fifty thousand dollars shall have been realized as  
 825 aforesaid, all revenues thereafter derived from the rentals of such portions of said grounds as the Des Moines Company is herein authorized to lease, shall belong to said Des Moines Company and shall be used in improving said terminal properties for the benefit of the parties using the same for railroad purposes, in such manner as the Executive Committee shall direct.

It is understood that the privilege reserved to the Des Moines Company of making leases of such portions of said property as are not at the time required by the lessees herein for railroad or terminal purposes, shall not be understood as including the right to grant any privileges, or the use of any space at or in the passenger station, or other buildings erected and used for railroad purposes, or the right to make any lease or contract for the use of any tracks or other railroad facilities or privileges.

The said Wabash Company for itself agrees to make the payment hereinbefore provided for at the times and in the manner prescribed, so long as it operates the railroad of the said Des Moines & St. Louis Company, and when the said Wabash Company ceases to operate the railroad of the said Des Moines & St. Louis Company its obligation to so pay and all the obligations herein assumed by it shall at once determine and be and become the obligations of whatever company operates the said railroad; it being the intention that the obligations of this lease, so far as they pertain to the Des Moines & St. Louis Railroad, shall attach to and become the obligations of the successor of the said Wabash Company in the operation  
 of the said Des Moines & St. Louis Railroad, and any  
 826 company succeeding the Wabash Company in such operation shall be held by the operation of trains over the said Des Moines & St. Louis Railroad, and upon the property hereby leased, to assume all the obligations herein undertaken by either the said Des Moines & St. Louis Company or the said Wabash Company.

And it is further agreed that the obligations herein assumed by the Des Moines Northern & Western Company shall pass with the railroad it now owns and operates, and shall become the obligations of any assignee, grantee or successor of the said Des Moines Northern & Western Company in the ownership or operation of the said Des Moines Northern & Western Railroad. And any company succeeding the Des Moines Northern & Western Company in such ownership or operation shall be held by the operation of trains over the said Des

Moines Northern & Western Railroad and upon the property hereby leased, to assume all the obligations herein undertaken by said Des Moines Northern & Western Company.

Section IV. If the amount, or any part thereof, due from any other railroad company or companies for the use of the property herein demised, or any part thereof, shall not be paid when due, then the sum so due and unpaid shall on demand of the said Des Moines Company be paid to it by the tenant companies under this agreement on a wheelage basis as herein before defined.

Section V. The said Des Moines Company shall, on or before the tenth day of each month, or as soon thereafter as practicable, make out and present to each of the tenant companies herein an account showing the amount due from them respectively for the preceding month, and payment thereof shall be made within five days thereafter. All claimed omissions or errors in said accounts, or exceptions thereto, 827 which may be taken by the tenant companies, shall be subsequently adjusted between the parties, but shall not delay the prompt payment of the accounts as rendered by the Des Moines Company.

Section VI. It is further agreed that if any one of the tenant companies herein named shall for any reason fail or refuse, for a period of thirty days after the same has become due and has been demanded, to pay the sum or sums due from it under this contract as aforesaid, then the said Des Moines Company may take from any moneys in its hands belonging to the said defaulting company, or in the hands of its agents the amount of said sum or sums, and apply sufficient thereof to meet said demand or demands. Should the sum in the hands of the said Des Moines Company or its agents be insufficient to meet the amount due under this agreement, and the same shall still remain unpaid, said Des Moines Company shall have the right to exclude the said delinquent tenant company from said premises, and the company so failing to pay shall at the option of the said Des Moines Company, forfeit all rights under this agreement, and the said Des Moines Company may thereupon, with the consent of the remaining tenant companies herein, transfer and assign the rights of the company so failing, to any other party or parties, for such sum as it may determine, and the same may be thereafter held and enjoyed by the said assignee or assignees; but it is understood and agreed that nothing herein shall prevent the said Des Moines Company from enforcing its claim or claims against any delinquent lessee or lessees, by any proper action, either

- 828 at law or in equity, to recover any amount which may be at any time due and unpaid, in the event that the said Des Moines Company shall so elect.

Section VII. The cost and expense of operating the engine houses and their appurtenances, and each of them, including the cost of turning and housing engines, furnishing water and sand, and of wiping and washing and firing up, shall be borne by each of the tenant companies herein named in such proportion as the number of road engines of each company in and out of said engine house during the period for which said cost and expense is made up, bears to all the engines of the tenant companies in and out of the same.

The cost and expense of operating and repairing the passenger station, including the cost of heating, lighting, cleaning and also the salaries and wages of all the agents and servants there employed, less any amounts paid by other tenants for use of said station, shall be borne by each of the tenant companies herein named, in such proportion as the number of passenger cars of each, in and out of said station during the period for which such cost and expenses are made up bears to the total number of passenger cars of all said tenant companies in and out of said station during said period.

The cost and expense of operating and repairing the freight house, including the cost of loading and unloading all freight handled at the request of either of the tenant companies herein named, and also the salaries and wages of all agents and servants there employed, by the Des Moines Company 829 shall be borne by each of the tenant companies herein named, in such proportion as the number of freight cars of each tenant company in and out of said terminals, during the period for which such cost and expenses are made up, bears to the total number of freight cars of each (said) tenant company in and out of said terminals during said period.

All repairs to engines and cars shall be charged for and paid by each of said companies for which the work is done on the basis of the actual cost thereof to the Des Moines Company, and all services rendered, supplies and labor furnished to any of the tenant companies, parties hereto, for their own benefit, and which are not properly a portion of the joint expenses, shall be charged directly to said company on such equal and equitable terms as may be agreed upon between the Superintendent of the Des Moines Company and the Superintendents of the respective companies for which the services are ren-

dered, or the supplies furnished, subject, however, to the approval of the Executive Committee.

Section VIII. The said terminal property hereby leased shall be used by the said tenant companies for all their trains entering or departing from said City of Des Moines, Iowa.

Section IX. The Directors of the Des Moines Company shall annually appoint an Executive Committee of three, upon which the Wabash Company, or its successors shall have a representative (to be selected by it), so long as (they, or either of them) use the terminal property hereunder.

Section X. The management of the depot grounds and terminal facilities, including station buildings, tracks, round-houses, shops, etc., shall be in charge of a Superintendent, who shall be unanimously selected by the Executive Committee. Said Superintendent shall, in the performance of his duties, be governed by such reasonable regulations as may from time to time be established by said Executive Committee, approved by the Board of Directors.

Section XI. The salary of said Superintendent shall be fixed by the Executive Committee, subject to the approval of the Board, and the compensation of other agents and employes shall not be higher than is paid by railroad companies in the vicinity for similar services.

Section XII. Said Executive Committee, subject to the (approval of the) Board, shall make, publish and enforce such rules and regulations for the use, management and operation of said terminal properties, including stations, depots, depot grounds, yards and tracks, by all the parties hereto, as it may from time to time consider necessary.

Section XIII. The Des Moines Company shall keep accurate books of account of the various items of interest, insurance, taxes, construction, improvement, operation, maintenance and repairs, and other disbursements upon and about the premises embraced in this agreement, and said books shall show the amount of work done for and fuel, or other material furnished to each of the said tenant companies, and the amount of fuel or other material received from each of said companies; and said books shall give such other details as will at all times enable the said tenant companies to make accurate settlements of their accounts, as provided in this agreement; and said books may at all proper and reasonable hours be examined and inspected by the respective Superintendents, Auditors or Treasurers of said tenant companies, or by an authorized accountant.

Section XIV. The said Des Moines Company shall also keep an accurate record of all the engines and cars of each tenant company arriving at and departing from said terminal station or said depot grounds, transfers and yards, and the cars of foreign roads that may be switched on to or from said terminals, for the benefit of the said tenant companies or others, and of all the engines which have been housed in said engine houses in each month; and as hereinbefore provided, said Des Moines Company shall furnish to the said tenant companies a full, true and detailed statement of all the expenditures made, and of all the fuel and other supplies used, delivered and received, of all the cars and engines received, handled or switched, of all work done or repairs made, and of all the engines housed and other expenses connected with the operation of said property during the month next preceding.

831 Section (15) All damages which may be received by any engine or engines, car or cars, while being moved by the said Des Moines Company for the aforesaid tenant companies or either of them at or upon any part of the premises embraced in this agreement, shall be repaired by the Des Moines Company, and the cost of such repairs shall be deemed an operating expense and borne and paid by the said tenant companies on a wheelage basis.

Section (16) All damages to property caused by any engine or engines, car or cars of the tenant companies occupying said terminals while being switched, managed and controlled or under the management and control of the Des Moines Company, or by any imperfection in the track or tracks laid on said premises and all injuries which may at any time be received by any person or persons, including employees, in, about, around or upon said terminal station, depot grounds, tracks, yards, shops, round houses, transfers, etc., caused through or by the said Des Moines Company or any of its agents, officers or servants, shall, if settled at all, be adjusted and settled by said Des Moines Company, and the sum thus paid in settlement or settlements, or as damages, if not settled, shall be considered as a part of the expenses of operating said terminals, and shall be divided and paid upon said wheelage basis, as herein defined.

Provided, however, that the said tenant companies and each of them using said terminal facilities hereunder, shall at its own cost and expense, bear, settle and pay all damages to property belonging to the parties hereto, or to third parties (persons) and all injuries to persons when said damages or injuries  
832 are done to or by its own trains while said trains are being moved by its own engines and are being operated and controlled by its own crews, unless such damages or in-

injuries are occasioned by the act, neglect or fault, of the employees or servants of the said Des Moines Company or by some imperfection in its track or tracks, machinery, tools, appliances, apparatus, etc.; and in case such damages or injuries are so occasioned by the act, negligence or fault of the servants of the said Des Moines Company, or by any imperfection in its said tracks, machinery, tools, appliances, apparatus, etc., then said payment or payments shall be made by the said Des Moines Company, and shall be considered as a part of the expenses of said terminals, and shall be divided and paid upon a wheelage basis, as herein defined.

Section (17) It is further agreed by and between the said Des Moines Company and each of said tenant Companies that either of said tenant companies may sell, assign and transfer to any one railway company all its rights under this agreement, or it may mortgage to any one party all its interest and right under this contract; but it shall not subdivide, sublet, mortgage or assign to any other company or person a portion of its said rights and privileges herein, and any assignment, mortgage or lease made by any one of said tenant companies which may be held sufficient to admit its assignee, mortgagee, or lessee, or their assigns to the possession of said property, shall be held sufficient to exclude and shall exclude the company making such lease, mortgage, or assignment from its rights and privileges in and upon said property under this contract; but this clause shall not be so construed as  
823 to prevent either of said tenant companies from contracting to do the business or handling with its own engines the traffic or cars of any other railroad company to and from said city upon such terms as the said Des Moines Company may approve, provided the line of such other railroad company connects with the line of such tenant company not less than twenty miles from said City of Des Moines.

Section (18) Interest on bonds hereafter issued by the Des Moines Company shall not be reckoned under the first paragraph of Section Two hereof, unless such bonds were issued with the consent of the party sought to be charged with such interest.

Section (19) It is further understood and agreed that this contract is entered into in lieu of and as a substitute  
834 for a certain agreement entered into on the 10th day of May 1889, between the Des Moines Union Railway Company, the Des Moines & St. Louis Railroad Company, the Des Moines & Northwestern Railway Company, and the St. Louis,

Des Moines & Northern Railway Company, and the said last named agreement is, by the execution hereof, forever terminated, and for the purpose of quieting all controversies with respect to the full execution and performance of said last named contract by each of the parties thereto, it is stipulated and agreed that the same has been fully performed: Provided, however, that all unsettled claims and accounts between the parties hereto shall be adjusted and settled in like manner as though they had arisen under this agreement; and that the capital stock of the said Des Moines Union Railway Company therein mentioned, is now rightfully held as follows, to-wit:

The Purchasing Committee of the Wabash	
St. Louis & Pacific Railway Company, . . . .	500 Shares
The Des Moines, Northern & Western	
Railroad Company . . . . .	1000 Shares
F. M. Hubbell & Son . . . . .	2500 Shares

Of the above shares belonging to said Purchasing Committee two shares stand upon the books of the company as follows: Joseph Ramsey, Jr., One share, and H. L. Magee, One share.

Of the shares belonging to the Des Moines Northern & Western Railroad Company, two shares stand upon the books of the company as follows: A. R. Cummins, One share, and F. M. Hubbell, One share.

835 Of the shares belonging to the said F. M. Hubbell & Son, five shares stand upon the books of the company as follows:

F. M. Hubbell, One share H. D. Thompson One share.

F. C. Hubbell One share A. N. Denman One share.

C. Huttenlocher One share.

In Witness Whereof, the respective parties hereto have caused these presents to be signed by their respective Presidents, and sealed with their corporate seals and attested by their respective Secretaries, the day and year first above written.

836

### Defendants' Exhibit 386.

July 18, 1905.

Mr. O. D. Ashley, President,  
Wabash R. R. Company,  
New York, N. Y.

Dear Sir,—

There has been considerable delay in preparing the Statement of Condition of the Des Moines Union Railway Company, for the purpose of having its Bonds listed. However,

I have finally gotten together the statistics which I think you will need. I enclose them to you herein with this suggestion, that you look it over, and use the facts therein contained for the purpose of preparing a statement which will comply with the requirements of the Committee on Stock List.

When you have this statement prepared as you think will be satisfactory, if you will send it to me, I will have six copies gotten up in as good shape as I can, and will have them signed and sent to you without delay. I am unable to procure a better map of the city of Des Moines than the one which I now send to you. I have delineated in red the right of way owned by this Company, together with several pieces of acre property. It is as near accurate as possible to show on a map made on such a small scale.

Hoping that the facts which I now enclose will enable you to prepare a satisfactory statement, and very much regretting the delay, I am,

Yours truly,

(Signed) F. M. HUBBELL,  
Secretary.

857

### Defendants' Exhibit 387.

Office of  
The Wabash Railroad Company,  
185 Broadway,

New York,  
July 22, 1895.

F. M. Hubbard, Esq.,  
Des Moines, Iowa.

Dear Sir:

I received your letter of the 19th inst. this morning. I had also expected the application papers for the Des Moines Union Railway Company, which you had previously advised me would be forwarded. I regret this as I am to leave town to-morrow to be gone for a week or ten days.

I shall not be able to see General Hubbard until my return.

Yours truly,

(Signed) O. D. ASHLEY,  
President.

P. S. Des Moines Union Ry Co. papers just received. Will try to get them under way before I leave.

**Defendants' Exhibit 388.****The Wabash Railroad Company.**

New York, Aug. 7, 1895.

F. M. Hubbell, Esq., Secretary,  
Des Moines Union Ry. Co.,  
Des Moines, Iowa.

Dear Sir:—

Your favor of the 18th of July with enclosure was received just on the eve of my departure for a short vacation, otherwise I would have replied before.

I enclose draft of application for listing of your bonds. In addition to this, it will be well for you to have prepared a blue print, which will show in some detail the land and tracks owned by the Terminal Co. This you or your representative can bring on at the proper time. Also please send the latest financial statement of the Company's condition. If there are any statements in this proposed application which are not true, please change them, as the examination made by the Committee is very searching, and it would not do to make any mistake. The Committee will also want copies of any agreements which you may have with the Tenant-Companies.

Please get the application into shape and we will present it and let you know when you shall be required to appear before the Committee,

Yours truly,

(Signed) O. D. ASHLEY,  
President.

(Copy)

**Defendants' Exhibit 389.**

Committee on Stock List.

New York Stock Exchange.

March 1st, 1895.

The Committee on Stock List meets each Monday at 3:15 P. M., and all applications to list new securities must be filed with the Secretary of the Exchange, on or before the Wednesday previous.

Requirements from Applicants.

In all cases of application for placing either Stock or Bonds of Railroad Companies on the List, it is required that there shall be filed as above stated Statement of the location and description of the property, and when possible a map should

be furnished. Statements should give Title of the Company; when organized, and by what authority; route from ..... to .....; miles of road completed and in operation, and contemplated extension; gauge; iron rails, steel rails, equipment; liabilities and assets; earnings; number of shares and par value; a list of its officers, etc.; office of the Company; transfer office and registry. If reorganization of an old road, the particulars should be stated. Six copies of this statement in type, or made by typewriter, and signed by an officer of the Company, should be furnished to the Committee.

When application is made to place the securities of any railroad corporation upon the List, the applicant must present a certificate from a Civil Engineer stating the actual physical condition of the property at a recent date.

Where applications are made to list securities of a corporation, which has been insolvent and has been reorganized, this Exchange will require a full and complete Financial Statement of said corporation for a period covering at least one year before its reorganization; i. e., a detailed statement of its earnings and receipts from every source, a detailed account of all expenditures, and the amount of its outstanding indebtedness in detail of every description, and a balance sheet of its books; also the amount and description of the various securities issued by such reorganized corporation, and the purposes, in detail, for which they are issued.

Applications to place Bonds on the List (Six copies required) must give a description of the Bonds, viz.: The amount of the issue; the date of issue; the maturity; the par value of each kind of Bond issued; the series of numbers under each mortgage; the rate of interest; when payable; the place of payment; the place of transfer, if with privilege of registration; and the names of the trustees. Six copies of the mortgage and other printed documents must also be furnished, and the issue must be only on such portions of road as are actually completed.

The Committee must also be furnished with a certificate from the County Clerk of each County in which the mortgaged property is located, that such mortgage has been recorded in each of such Counties; or should the laws of the State in which the same is located not require a record to be made in the several Counties, a certificate of the Secre-

tary of the State, of the proper record of the same; or a copy of the Mortgage with the certificates of record properly endorsed thereon, certified by the Trustee to be a true copy.

Applications to list securities of Industrial Companies must be accompanied with a copy of Charter or Act of Incorporation; By-Laws of the Company; opinion of Counsel that the Company has been legally organized and that the securities have been legally issued; a full description of the property, real, personal and leased; opinion of counsel that real estate owned is free and clear, except as to liens stated; appraisal of disinterested parties as to market value of real estate and personal property; report of responsible expert accountants, showing results of business each year for the period of at least two consecutive years if possible; and a balance sheet showing assets and liabilities of recent date.

Applications to list securities of other Companies must be accompanied with full information as to property, financial condition, and results of business as indicated above.

Each application must be accompanied by a fee of One Hundred Dollars, to cover the cost of printing and other expenses of the Committee, said fee to become the property of the Exchange, whether the application is accepted or rejected. On application for listing additional amounts of Stock or Bonds already on the List, the fee is Fifty Dollars.

845 Checks should be drawn to the order of the Chairman of the Committee on Stock List, to whom all applications should be addressed.

#### Trustees of Mortgages.

It is recommended that a Trust Company or other Corporation be appointed a Trustee of all Mortgages, but when a State Law requires a local individual Trustee, then a Trust Company or a Corporation be appointed as Co-Trustee.

The Committee does not approve of an officer of a corporation being a Trustee of its securities.

In all cases where two or more liens have been placed upon the property of any corporation seeking the listing of its securities upon the Exchange, each deed of trust must be made to a Trustee or Trustees separate and distinct from those to whom the other mortgages have been issued.

The Trustee must present a certificate acknowledging the acceptance of the trust and giving the numbers and amounts of Bonds executed in accordance with the terms of the Mort-

gage, and in case of additions, the Trustee must certify to the completion of the portion of the road covered by the additional Bonds.

It is requested that a Trustee shall furnish opinion of Counsel as follows:

"We have examined the Mortgage, dated .....18..., made by the ..... Company to the ..... Trust Company of ..... as Trustee, to secure an issue of ..... Bonds of said Company to an amount not to exceed \$. .... We find the action of the Directors and Stockholders in respect to this 846 Mortgage to be in conformity with the laws of the State of .....; and the Mortgage and Bonds therein provided for to be, in all respects, valid and binding obligations of the Company."

#### Engraved Certificates Required.

The face of every Bond, Coupon, or Certificate of Stock must be printed from steel plates which have been engraved in the best manner, with such varieties of work as will afford the greatest security against counterfeiting.

For each document or instrument there must be at least two steel plates, viz.: A Tint plate from which will be printed an anti-photographic color, so arranged as to underlie important portions of the face printing, and a Face plate containing the vignettes and lettering of the descriptive or promissory portion of the document, to be printed in black, or in black mixed with a color.

These two printings must be so made upon the papers that the combined effect of the whole, if photographed, would be a confused mass of lines and forms, to effectually secure against counterfeiting by scientific processes.

It is required that a sample of each issue of Stock or Bonds shall be shown to the Committee (to be left with the Committee, if possible), so that it may be ascertained whether proper precautions have been taken against forgery; and no form of Stock Certificate or Bond will be accepted unless it has been carefully engraved by some responsible Bank-Note Engraving Company, whose work is admitted by the Exchange.

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#### Registration.

The Constitution of the Exchange provides that all active Stocks must be registered at some Institution satisfactory to the Committee; and each application must be accompanied by a letter from the Registrar stating the amount of

Stock registered at the time of application, and also by "The Form of Agreement with Registrars," duly executed, provided such form has not been already filed with the Committee.

It is required that the same Trust Company, or other satisfactory Agency, should not be both Registrar and Transfer Agent. The duties of such offices should be performed by different Companies or Agencies.

In any case of increase of Capital Stock, except for Convertible Bonds already listed, at least thirty days' notice of such increase must be given in writing to the Stock Exchange, and application must be made through the Committee on Stock List to the Governing Committee to have such new Stock declared a good delivery, and the Registrar is not authorized to register the new Stock until notified by this Committee that the Stock has been listed.

All Signatures upon Securities must be written. Stamped Signatures will not be accepted by the Committee.

#### Certificates of Stock.

In preparing Certificates of Stock, it should be borne in mind that the Power of Attorney endorsed upon the same must contain a full bill of sale, must be irrevocable, and should contain a power of substitution.

848 After any Stock has once been placed on the List, any change in the form of Certificate, or place of Registry must receive the consent of this Committee, or the Stock will be liable to be stricken from the List.

In any case, the Governing Committee may, if reasons for so doing shall appear to exist, refuse to make new issues of Stock a good delivery, and to allow dealings therein, or in the whole Capital Stock, or in the Bonds of any Company, either for a time or permanently, as the case may seem to require.

#### Certificates of Deposit in Trust.

Institutions, Firms or Corporations which are depositaries of securities under plans of reorganization, protection or associate action, are requested to accept on deposit only such securities as are good delivery in this Exchange, provided, however, that in any case where said depositaries find it necessary to accept securities which are not a good delivery, they shall issue therefor a distinctive certificate which will indicate such fact.

When bonds are deposited with Institutions, Firms or Corporations, which are depositaries under plans of reorganiza-

tion, protection, or associate action, certificates therefor shall be considered as representing the deposit of coupon bonds. When certificates are issued for deposit of registered bonds, said certificates must bear on their face evidence of such fact.

### Recommendations.

This Exchange recommends to the various corporations whose securities are here dealt in, that they shall print, publish and distribute to stockholders, at least fifteen days prior to annual meetings, a full report of their operations during the preceding fiscal year; together with complete and detailed statements of all income and expenditures, and a balance sheet showing their financial condition at the close of the given period. And this Exchange urges the stockholders of the several corporations, to take such action as may be necessary for the accomplishment of this recommendation.

George W. Ely,  
Secretary

SALEM T. RUSSELL,  
Chairman.

850

### Defendants' Exhibit 390.

April 15, 1896.

Mr. O. D. Ashley, President,  
Wabash R. R. Co., #195 Broadway,  
New York, N. Y.

Dear Sir,—I have your letter of recent date, in regard to listing Des Moines Union Railway bonds.

In reply have to say we have had an engineer at work for several months making an accurate map of the Des Moines Union Ry. Company's property, locating its tracks, etc., the work being done by actual surveys and measurements of the ground. This map it is expected will be completed within a week or two, then we will have blue prints made of it in small sections so we can furnish the Committee of the Stock Exchange with a good map of the property. As I understand it, a map of the property is required, and the delay has been due to the fact that we wanted to furnish a good map. I will not lose sight of this matter, and hope in a very short time to have everything complete.

If you should say to me that the making of an accurate and elaborate map is not required, I could probably complete the other data and send it to you very soon.

Yours truly,

(Signed) F. M. HUBBELL,  
Secretary.

**Defendants' Exhibit 391.****The Wabash Railroad Company.**

New York, April 18, 1896.

F. M. Hubbell, Esq., Pres't.,  
Des Moines Union Railway Co.,  
Des Moines, Iowa.

Dear Sir:—

I have yours of the 15th. I do not remember any stipulation in the Stock Exchange circular which requires a map, as stated by you, but it may be that you are right. At all events as the work is well under way and can be completed within a short time, it will be advisable to wait until you can furnish it with the other information. When you are ready for this I will try to aid you in listing the bonds of the Des Moines Union Railway Co. The importance of this recognition by the Stock Exchange I think you fully appreciate.

Yours truly,

(Signed) O. D. ASHLEY,  
President.

(Copy)

**Defendants' Exhibit 392.**

Sept. 28, 1897.

Mr. O. D. Ashley, President,  
195 Broadway, New York.

Dear Sir:—

I have today sent to you another blue print showing the right-of-way and lands of the Des Moines Union Ry. Company, also a copy of the report which the Des Moines Union has just made to the Railroad Commissioners of Iowa. If this report is not what you want to give to the Committee of the Stock Exchange, then will you not please make out from this report such facts as you want to have furnished to the Committee of the Stock Exchange, and send it to me and I will sign and return it to you.

I also enclose herewith a request made by the Des Moines Union Company to the Committee of the Stock Exchange, to have 800 Des Moines Union Ry. Company bonds listed. As I understand it, you now have several copies of the terminal contract with the Chicago Great Western Company, copies of the terminal contract recently entered into by and between the Des Moines Union, the Wabash, and the Des Moines, Northern & Western Companies, two blue prints, a full report of the Company made to the Railroad Commissioners, and our applica-

tion to have the bonds listed, which I think is all that is required.

I now enclose draft on New York to your order for \$100, which I understand is the amount required to be paid to the Committee whether the bonds are listed or not. Kindly receipt and return the voucher to me, and oblige,

Yours truly,

(Signed) F. M. HUBBELL,  
Secretary.

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**Defendants' Exhibit 393.**

Committee on Stock List,  
New York Stock Exchange.

A-1971.

Des Moines Union Railway Company.

Des Moines, Iowa,  
September 28, 1897.

The Des Moines Union Railway Company hereby respectfully asks to have placed on the stock list of the New York Stock Exchange 800 of its First Mortgage 5% Bonds for \$1,000 each, Nos. 1 to 800, amounting to \$800,000. The bonds bear semi-annual coupons, payable May and November 1, at the office of the Central Trust Co., New York. The bonds are secured by a first mortgage to Central Trust Company of New York, dated November 1, 1887, maturing November 1, 1917, bearing interest at the rate of 5 per cent per annum. The principal and interest of said bonds are payable in gold coin of the present standard. The principal may be registered at the office of the Wabash Railroad Company, 195 Broadway, New York.

The Des Moines Union Railway Company is a corporation organized in 1884 under the laws of the State of Iowa, with an authorized capital of \$2,000,000 (\$400,000 issued) shares of \$100 each, and "the objects of the corporation and the general nature of the business to be transacted are the purchase, lease, construction, ownership, maintenance and operation of a system of railway in, around and about the City of Des Moines, Polk County, Iowa, including the construction, purchase, ownership, maintenance and use of a union depot, depots, freight houses, railway shops, repair shops, stock yards, and whatsoever other things may be useful or convenient for the operation of railways at terminal stations, as well as the transfer and switching of cars from

the line or depot of one railway to another, or from the various manufactories, warehouses, elevators, or other sources of traffic to each other or to any of the railways or depots thereof, now constructed or hereafter to be constructed in or around said City of Des Moines; also to lease terminal facilities to and furnish and perform terminal services for all railways whose lines reach or pass through or near the said city of Des Moines; and the corporation shall possess all the powers conferred upon railway corporations by the laws of the State of Iowa, including the power to condemn private property for its use."

The Des Moines Union Railway Company is the absolute owner of a right-of-way across the original city of Des Moines from the east to west, a distance of four miles, together with 25 acres of land not laid out into lots, all of which is centrally located in said City of Des Moines.

The Company owns over five miles of main track and branches, 2 miles of second main track and  $7\frac{7}{100}$  miles of yard tracks and sidings, the bridge across the Des Moines River, 3 switching engines, the passenger and freight depot, round houses, and other buildings appurtenant to the conduct of the business of the Company as now carried on.

The terminal facilities offered by this Company are at present shared by the Des Moines & St. Louis R. R. (owned by the Wabash R. R. Co.) the Chicago Great Western Railway, and the Des Moines, Northern & Western Railroad. Each of these companies for itself has agreed to pay monthly, as rental for the facilities used, a sum equal to one month's interest on the outstanding bonds, besides they pay for their proportion of the expense of operation. In addition, the Company derives considerable revenue for switching cars for other railroads (not tenants) and in rents for the use of various portions of the property.

The office of the Company is at Des Moines, Iowa. Here with find the following papers, viz: Six copies of mortgage, one of which bears the certificate of the Recorder of Polk County, Iowa, respecting the recording of same, and has attached the certificate of the Central Trust Company of New York, signifying its acceptance of the trust; blue print showing location of tracks and real estate of company.

## THE DES MOINES UNION RY. CO., ET AL.

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## RECEIPTS AND EXPENDITURES.

For year ending June 30th, 1897.

## RECEIPTS.

Amount rec'd. from The Wabash R. R. Co. on wheelage basis.....	\$ 31,251.14
" " " Des Moines N. & W. Ry. Co. " " .....	58,447.66
" " " Chicago G. W. Ry. Co. on a wheelage basis..	47,190.71
" " for outside switching and rent of real estate.....	10,282.42
	<hr/>
	\$147,172.00

## EXPENDITURES.

Interest paid on First Mtge. Bonds.....	\$ 28,450.00
Taxes for year ending June 30th, 1897.....	6,260.25
Conducting Transportation.....	66,147.27
Maintenance of Way Structures.....	15,935.55
" " Equipment.....	13,679.33
General Expenses.....	6,300.11
	<hr/>
	\$136,889.51

SURPLUS.....	\$ 10,282.49
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GENERAL BALANCE SHEET.  
FOR YEAR ENDING JUNE 30, 1897.

## ASSETS.

Cost of Road & Equipment.....	\$105,000.00
Material and Supplies on hand.....	5279.24
Accounts Receivable.....	20939.26
Cash in hands of Treasurer.....	16.61
	<hr/>
	\$1,088,235.11

## LIABILITIES.

Capital Stock.....	\$ 400,000.00
First Mortgage Bonds.....	628,000.00
Bills Payable.....	46,424.99
Pay Rolls, June 1897.....	7,739.17
Balance to credit Profit & Loss Acct.....	6,070.95
	<hr/>
	\$1,088,235.11

858 The Directors of the company are: J. Ramsey, Jr., Vice President and General Manager, Wabash R. R. Co., St. Louis, Mo.; H. L. Magee General Superintendent Wabash R. R. Co. St. Louis, Mo.; F. M. Hubbell, President Des Moines, Northern & Western R. R., Des Moines, Iowa; F. C. Hubbell, 1st Vice President and Superintendent D. M. N. & W. R. R., Des Moines, Iowa; H. D. Thompson, 2nd Vice President and Treasurer, D. M. N. & W. R. R., Des Moines, Iowa; A. B. Cummins, Solicitor D. M. N. & W. R. R., Des Moines, Iowa; A. N. Deuman, Des Moines, Iowa; C. Huttenlocher, Des Moines, Iowa.

The officers of the Company are F. C. Hubbell, President; A. B. Cummins, Vice President, F. M. Hubbell, Secretary; D. Thompson, Treasurer.

Respectively yours,

DES MOINES UNION RAILWAY CO.  
By F. M. Hubbell, Secretary.

This Committee recommends that \$628,000 of the above-described First Mortgage 5% Gold Bonds of 1917, Nos. 1 to 628 inclusive, be admitted to the list.

W. H. GRANBERY,  
Chairman.

Adopted by the Governing Committee, November 24, 1897.

GEORGE W. ELY, Secretary.

(Copy.)

859

### **Defendants' Exhibit 394.**

New York, Oct. 27, 1897.

Received From Des Moines Union Ry. Co., One Hundred Dollars, Free to New York Stock Exchange with application of said Company, regarding 1st Mtg. Bonds.

Said fee to become the property of the Exchange, whether the application is accepted or rejected, in accordance with the rules of the Exchange.

\$100.00

(Signed) F. W. GILLEY,  
Treasurer.

860

### **Defendants' Exhibit 395.**

Office of  
The Wabash Railroad Company,  
195 Broadway,

New York,

October 2, 1897.

F. M. Hubbell, Esq., Secretary,  
Des Moines Union Railway Co.,  
Des Moines, Iowa.

Dear Sir:

Your favor of the 28th ultimo and all papers enclosed therewith were duly received.

I return herewith voucher for \$100 duly signed.

We will advise you later if any further documents are required by the Stock Exchange or if the form of your applica-

tion will have to be changed. The Exchange will require six copies of the application, "signed by an officer of the company" making the application. But you need not send them on until you hear from me.

We are under the impression here that a copy of the engraved bond was given to us by the bank note company which furnished the same, but we are unable to find it. If you have it in Des Moines will you please forward at once. If it is not there, please telegraph me upon receipt of this, at the same time letting me know the name of the company that did the work.

Yours truly,

(Signed) O. D. ASHLEY,  
President.

861

### Defendants' Exhibit 396.

Office of  
The Wabash Railroad Company,  
195 Broadway,

New York,

Oct. 6, 1897.

F. M. Hubbell, Esq., Secretary,  
Des Moines Union Railway Co.,  
Des Moines, Iowa.

Dear Sir:

Referring again to your letter of the 28th ult., I have returned to you to-day by express the report of the Iowa Commissioners and also your application to the Stock Exchange. You will notice that some additions have been made to the latter which seemed to be required to meet the latest rulings of the Stock Exchange. Kindly send me six signed copies of the application with a copy of the mortgage containing the County Clerk's certificate, your balance sheet and a statement of earnings and expenses for the fiscal year ending June 30, 1897. The latter statement should show all the sources of your receipts, of your earnings and expenses, and other payments. I do not mean that you should go into too great detail about the matter, but such as is ordinarily furnished.

When I get the above papers I will present the same to the stock Exchange immediately. I have the balance of the required documents here.

The rules of the Stock Exchange say "It is requested that a "Trustee shall furnish opinion of Counsel as follows:

862 "We have examined the Mortgage, date..... B.....  
 "made by the.....Company to the.....Trust Company  
 "of.....as Trustee, to secure an issue of.....Bonds of said  
 "Company to an amount not to exceed \$..... We find the  
 "action of the Directors and Stockholders in respect to this  
 "mortgage to be in conformity with the laws of the State of  
 ".....; and the mortgage and bonds therein provided for  
 "to be, in all respects, valid and binding obligations of the  
 "Company."

I am in hopes that they will not insist upon this and shall  
 put it off until the last moment so as to avoid the expense,  
 unless it is necessary.

Yours truly,

(Signed) O. D. ASHLEY,  
 President.

863

### Defendants' Exhibit 397.

October 13, 1897.

Mr. O. D. Ashley, President,  
 193 Broadway, New York.

Dear Sir:—

In accordance with your letter of the 6th inst. I now en-  
 close you the following papers, viz.,

6 signed copies of application to S. T. Russell, Chairman  
 Stock list Committee, New York Stock Exchange.

1 copy of the mortgage containing the County Recorder's  
 Certificate.

1 balance sheet showing statement of earnings and expenses  
 for the fiscal year ending June 30th, 1897.

I hope you will find these papers satisfactory.

Yours truly,

(Signed) F. M. HUBBELL, Secretary.

(In re listing D. M. Union bonds)  
 (on New York Stock Exchange.)

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**Defendants' Exhibit 398.**

Office of  
The Wabash Railroad Company,  
195 Broadway, New York,

Oct. 16, 1897.

F. M. Hubbell, Esq., Sec'y,  
Des Moines Union Ry Co.,  
Des Moines, Iowa.

Dear Sir:

Your favor of the 13th inst. with enclosures as stated received this morning. The applications will be presented to the Stock Exchange next week.

Yours truly,

(Signed) O. D. ASHLEY, President.

865

**Defendants' Exhibit 399.**

Office of  
The Wabash Railroad Company,  
195 Broadway, New York,

Oct. 19, 1897.

F. M. Hubbell, Esq., Sec'y,  
Des Moines Union Ry Co.,  
Des Moines, Iowa.

Dear Sir:

I have just received from the Central Trust Company their certificate as Trustee, in which they state that they have "authenticated and issued" 628 of the First Mortgage Bonds. You have explained in a letter to Mr. Ashley the reason for the difference which exists between the balance sheet and the Central Trust Company's certificate; but in order to obviate an explanation to the Listing Committee of the New York Stock Exchange, it has been thought advisable here to add \$59,000 to the cost of road and equipment in the general balance sheet and to increase the amount of First Mortgage Bonds issued from 569 to 628 inasmuch as the Stock Exchange, in view of the certificate of the Central Trust Company, will insist that the 20 bonds referred to are issued.

I enclose herewith new balance sheet and new statement of receipts and expenditures. You will note in the general balance sheet that I have consolidated the "Bills Payable" into one item and have called "Surplus Earnings" "Profit & Loss." You will note also a slight change made in the statement of

866 receipts and expenditures. This is thought best so as to make it appear on the face of the statement that the year's operation of the Company yielded a surplus above expenses, and dispenses with the explanation which you have made on your statement.

If you approve of these alterations will you be good enough to wire me on receipt of this letter so I can furnish the Stock Exchange with new statements made out, as corrected above.

Yours truly,

(Signed) J. C. OTTESON, Secretary.

P. S. Mr. Ashley desires me to say that there has been a small lot of bonds of the Des Moines Northern & Western offered here as low as 45. He thought you would like to know of this.

867

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**Defendants' Exhibit 400.**

October 23, 1897.

Mr. J. C. Otteson, Secy.,  
#195 Broadway, New York.

Dear Sir:—

I have your letter of the 19th inst. and have just wired you as follows; "I approve of the alterations and new statement furnished in yours of the 19th inst." which I now confirm.

Our Auditor has made a new balance sheet showing statement of receipts and expenditures, in accordance with your corrections and I see no reason why the statement as prepared by you shall not be filed with the Committee of the Stock Exchange.

I note what you say about Des Moines, Northern & Western R. R. bonds being offered as low as 45. Please let me know how large a block was offered at that price and the name of the person who made the offer.

Yours truly,

(Signed) F. M. HUBBELL, Secretary.

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868

**Defendants' Exhibit 401.**

Form 104. 4-5-94. C. M. R. & Co. No. 8221.

The Des Moines Union Railway Company,

To O. D. Ashley  
of New York, N. Y. Dr.

1897 For money advanced to pay for listing  
October, Des Moines Union Ry. Company Bonds  
Nos. 1 to 800 inc. on New York Stock  
Exchange. \$100.00  
(First Mortgage Bonds amounting to  
(800.000))

Approved,	Approved,	Audited for payment,
(Signed)	(Signed)	(Signed)
F. C. HUBBELL.	J. A. WAGNER.	E. G. MITCHELL.
President.	Superintendent.	Auditor.

Received Oct. 2, 1897 of the Des Moines Union Railway Company the sum of One Hundred Dollars (\$100.00) in full for the above account.

(Signed) O. D. ASHLEY.

(Endorsed on back as follows:)

6332 Auditor's No. 8221 Treas. No. 6881  
\$100.00

Entered in October 1897.

The Des Moines Union Railway Co.

O. D. Ashley New York

Distribution of Account.

G. O. Expense 100.00

869

**Defendants' Exhibit 402.**

**The Wabash Railroad Company.**

Office

J. Ramsey, Jr., Vice Pres't.  
& Gen'l. Manager.

St. Louis, Mo., Mch. 20th '97.

Mr. F. C. Hubbell,

Pres't, D. M. U. Ry. Co.,

Dear Sir:—

Replying to yours of the 19th. I am hardly prepared to advise fully regarding the rebuilding of the D. M. U. shops,

as I am utterly in the dark as to the amount which would be received from the Insurance Company on account of the fire and damage to tools.

The character and dimensions of the shop necessary at Des Moines will depend entirely upon the work which is to be performed there, and naturally it would take a much larger and more expensive shop if all of the general road repair and machine work of the D. M. N. & W. is to be done there, than it would if the repairs of the D. M. U. Co. and such repairs to the engines of the tenant lines as are rendered necessary to take care of engines running in and out of that terminal, were simply taken care of.

If the requirements of the D. M. N. & W. system are to be met, then the D. M. N. & W. should pay such proportion of the cost of this shop and tools as would be fair and proper, and also pay either a fair rental for the general additional shop room and yard space required on account of these additional repairs, or such proportion of the general and other expenses of the shop as would justify the Des Moines  
870 Union in going to this additional expense on account of the D. M. N. & W.

I do not wish to be small in regard to this matter but it is certainly only fair that the D. M. N. & W. should pay more for the special service it is receiving at the shop, etc. than it has been paying in the past.

Yours truly,

J. RAMSEY, JR.,  
Vice-Prest. & Genl. Manager.

871

### **Defendants' Exhibit 403.**

May 8, 1897.

Mr. J. Ramsey, Jr.,  
V. P. & G. M. Wabash R. R.,  
St. Louis, Mo.

Dear Sir:—

Replying to attached will say the monthly bills we render against your company show every item of expense at the round house and shops, including all work, material, and supplies which are charged against the Des Moines Union and Wabash Companies. Do I understand that you want us to make you a copy of bills rendered against the Des Moines, Northern & Western R. R. for labor and material on their engines? This, I feel, is hardly justified as each month you check our original record and have full access to the books of the company. The only objection I have to doing it is that it will

require another report to be made and as the several tenants are rather free in their requests for reports from us, we dislike to add a new report unless it is absolutely necessary. Please advise.

Yours truly,

F. C. HUBBELL,  
Pres.

872

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**Defendants' Exhibit 404.**

July 24, 1897.

Wells H. Blodgett, Gen'l. Sol'r.  
St. Louis, Mo.

My dear Colonel:—

I enclose to you three copies of the proposed ratification of the terminal contract. If it needs any amendment please make it, and afterwards have it executed in triplicate. Upon return to me I will have it executed by the Des Moines Union and Des Moines, Northern & Western, and then send you one completed instrument.

Yours very truly,

(Signed) A. B. CUMMINS.

873

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**Defendants' Exhibit 405.**

November 24, 1897.

Mr. J. Ramsey, Jr.,  
V. P. & G. M. Wabash R. R.,  
St. Louis, Mo.

Dear Sir:—

The attached papers were held in my office expecting to take this subject up with you personally when you were in Des Moines, but were overlooked, owing to your anxiety to get away.

Mr. Wheeler has a location free of rent on our tracks, furnished by F. M. Hubbell. Lumber or other material billed to him at Des Moines is placed on his switch and by him unloaded. He is a builder of bridges and deals in southern oak. When he makes a sale or when he needs some material for building his own bridges, he naturally reships from these yards. If the shipment goes forward via the C. G. W., Wabash, or D. M. N. & W. he has the privilege of loading without any charge for switching. If, however, he loads for the C. R. I. & P., C. B. & Q., or C. W. N. W. it is only fair that he pay a switching charge for the service. I am certain that this would be the rule under similar circumstances if Mr. Wheeler

was located on any of the other lines. We wish to do whatever we can to help your St. Louis business, but do not see why we should perform this kind of service free and it certainly is not a service which can be properly termed a wheelage item because of not going out over your road. The question would naturally arise how many wheels would we be entitled to charge. Please let me hear from you.

Yours truly,

F. C. HUBBELL, Presd.

875

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**Defendants' Exhibit 406.**

December 30, 1897.

Mr. J. Ramsey, Jr.,  
V. P. & G. M. Wabash R. R.,  
St. Louis, Mo.

Dear Sir:—

Herewith I hand you form of proxy for the Purchasing Committee to execute appointing proper party to represent your Company at the annual meeting of the Des Moines Union Ry. Co. on January 6th, 1898. I trust you can sign for the Committee.

In this connection will say the only change in the Directors will be the election of Mr. Cyrus Kirk instead of Mr. A. N. Denman resigned. Yourself and Mr. Magee will be elected by the stock represented by our interest.

Yours truly,

F. C. HUBBELL, Presd.

876

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**Defendants' Exhibit 407.**

Feby. 7, 1898.

Mr. J. Ramsey, Jr.,  
V. P. & G. M. Wabash R. R.,  
St. Louis, Mo.

Dear Sir:—

To-day the City Council passed the Des Moines Union Depot Ordinance substantially the same as the copy which I sent to you in New York. The only amendment of interest provides that the east and west street running from Fifth to Sixth street shall be thirty feet wide instead of twenty-two feet. The Council wished to make the street thirty-six feet wide and passed the amendment in that way, but upon our absolute refusal to take the ordinance providing for a thirty-six foot

street, we agreed on thirty feet and they reconsidered the amendment and passed the ordinance that way.

I consider that we have a valuable franchise and that it is in better shape than any previous ordinance which we have ever introduced. The only party who could have made us any trouble on this ordinance is Kingman & Company owning lots 5 and 6 in block 9, Original Town of Fort Des Moines. They were here and made a very stubborn fight and in order to pull their fire, I to-day bought their property for our individual account, paying them \$27,500.00 cash for the same. This may not be of any interest to you from a Wabash standpoint, yet it will result in relieving the terminal company from an expensive law suit.

The ordinance provides that we accept it within five days and as I wish to go east early this week, I shall file an  
877 acceptance of same before I leave town in order to complete the contract. You will note the ordinance provides that the railway company will assume and pay all damages which abutting owners may succeed in establishing against the city. This is a common provision in all similar ordinances, but the Supreme Court of our state has for years held that there can be no damages as a matter of law. All the attorneys in Des Moines are agreed on this proposition, so we have nothing to fear from that section of the ordinance.

I will have the architect go ahead with the detail drawings at once, conforming the building to your suggestions made when Mr. F. M. Hubbell and myself were in St. Louis.

With respect to facilities during the building of the new station, would say we now have part of the permanent platforms in place and we can build in Sixth St. a wooden structure one story high, which these platforms will serve, which ought not to cost us to exceed three hundred to five hundred dollars, and which will be suitable for temporary waiting rooms and ticket room. We can move the present baggage room westerly from its present site and abandon the brick structure now occupied by us as a depot so that the contractors in building the new structure will not be interrupted in any way by the old building or the traveling public. I can so arrange the premises that our passengers can be kept from any dangerous contact  
878 with the materials or the operations connected with building the new structure and when the new building is finished, we can tear down our temporary wooden structure and the material will all be useable. We will move all our offices out of the depot at an early day, taking some

quarters farther up town. I think Mr. Wagner can furnish space at the freight house for your dispatcher's office if you desire to avail yourself of the same.

I trust you will agree with our steps. If, however, you have any changes to suggest, please let me hear from you very promptly.

Yours truly,

F. C. HUBBELL,  
Pres.

879

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**Defendants' Exhibit 407a.**

**The Wabash Railroad Company.**

Office.

J. Ramsey, Jr., Vice-President  
& Genl. Manager.

St. Louis, Mo., June 15th, 1898.

Mr. F. M. Hubbell,

Sec. Des Moines Union Railway Co.,  
Des Moines, Iowa.

Dear Sir:—

Replying to yours of June 11th, The Wabash directors will vote in favor of the proposed contract with the Iowa Central Railroad Company for the use of the Des Moines Terminals, on the same conditions as they are used by the Wabash and Des Moines, Northern & Western Companies.

Yours very truly,

J. RAMSEY, Jr.,  
Vice-President & General Manager.

880

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**Defendants' Exhibit 408.**

**The Wabash Railroad Company.**

Office.

J. Ramsey, Jr., Vice-President  
& Genl. Manager.

St. Louis, Mo., October 18th, 1898.

Mr. F. C. Hubbell,

Pres. The Des Moines Union Railway,  
Des Moines, Iowa.

Dear Sir:—

Mr. Martin has advised me that he is negotiating a contract with your company for the use of the Des Moines terminals,

which city he proposes to reach over the Wabash line for Cordova.

I would earnestly recommend that you enter into a contract with Mr. Martin on the same general terms and conditions, so far as they will apply to Mr. Martin's road as are contained in the contracts between the Des Moines Union Railway Co. and the Wabash and Des Moines, Northern and Western.

Yours very truly,

J. RAMSEY, Jr.,  
Vice President and Genl. Manager.

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**Defendants' Exhibit 409.**

**Chicago, Milwaukee & St. Paul Railway Co.**

Office of the President.

Roswell Miller,  
President.

Chicago, Nov. 16th, 1898.

F. M. Hubbell, Esq.,  
President, D. M. N. & W. R. R. Co.,  
Des Moines, Iowa.

Dear Sir:—

This will be handed you by Mr. E. W. Adams, who goes to Des Moines for the purpose of examining the right-of-way records of your road. Please furnish him with facilities for accomplishing his purpose.

Yours truly,

(Signed) ROSWELL MILLER,  
President.

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**Defendants' Exhibit 410.**

**Chicago, Milwaukee & St. Paul Railway Co.**

Office of the President.

Roswell Miller,  
President.

Chicago, Nov. 18, 1898.

F. M. Hubbell, Esq.,  
Presd. D. N. & W. R. R. Co.  
Des Moines, Ia.

Dear Sir:—

Our General Auditor, Mr. Winne, goes to Des Moines for the purpose of examining the books of the Des Moines, Northern & Western R. R. Co., Please furnish him the necessary

facilities for doing it; and also explain to him the condition in reference to rebates.

Yours truly,

(Signed) ROSWELL MILLER,  
President.

883

**Defendants' Exhibit 411.**

**Chicago, Milwaukee & St. Paul Railway Co.**

Office of the President.

Roswell Miller,  
President.

Chicago, Nov. 22nd, 1898.

F. M. Hubbell, Esq.,  
President, D. M. N. & W. R. R. Co.,  
Des Moines, Iowa.

Dear Sir:—

In the contract between the Des Moines Union Railway Company, Des Moines & St. Louis Railroad Company, Des Moines & Northwestern Railway Company and St. Louis, Des Moines & Northern Railway Company you state that the Des Moines Union Railway Company operated a line of railway "extending from the eastern boundary line of said city to Farnham Street". I understand that the Des Moines Union property extends to 28th street. How is this?

Yours truly,

ROSWELL MILLER,  
President.

884

**Defendants' Exhibit 412.**

**Chicago, Milwaukee & St. Paul Railway Co.**

Office of the President.

Roswell Miller,  
President.

Chicago, Nov. 22nd, 1898.

F. M. Hubbell, Esq.,  
President, D. M. N. & W. R. R. Co.,  
Des Moines, Iowa.

Dear Sir:—

Will you have the kindness to send to Mr. Myers all the deeds of your right-of-way on the Fonda line, and the maps, also all the records you have in regard to condemnation pro-

ceedings; in short, all the records you have with relation to the right-of-way of the Fonda line; also, as far as you have them, of the Boone line.

Mr. Whittemore says he had a profile of the Boone line in his office in 1883 and returned it to the company. It has occurred to me that this profile, and possibly the map and other papers relating to the right-of-way of this line, may be with General Dodge. Won't you ask him whether he has them and, if so, get them from him.

Will you also have the kindness to send me the articles of association of the Des Moines Union Railway Company, with all amendments thereto.

Yours truly,

(Signed)      ROSWELL MILLER,  
President.

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**Defendants' Exhibit 413.**

SS5

F. M. Hubbell & Son.  
Brokers.  
Des Moines, Iowa.

Des Moines, Iowa, November 22nd, 1898.

Mr. Roswell Miller, President,  
C. M. & St. P. Ry. Co.,  
Chicago,

Dear Sir:

Referring to our conversation had on the 14th inst. you asked me to write you a letter stating my understanding of the terms of the trade pending between F. M. Hubbell & Son and your company. It is my understanding:—

1st. That the Chicago, Milwaukee & St. Paul Railway Company will give to F. M. Hubbell, F. C. Hubbell and H. D. Thompson annual passes each year during the lifetime of F. M. Hubbell, over its entire system, and any additions made thereto in the future. After his death, F. C. Hubbell and H. D. Thompson must take their chances upon receiving from your company such annual passes.

2nd. F. M. Hubbell & Son will offer to A. B. Cummins \$1000. for his stock in the D. M. N. & W. R. R. Co. amounting to \$62,500 par value, and if the offer is accepted by him, the stock shall be transferred to your Company, your company to furnish whatever revenue stamps that may be required to be placed on said certificates.

3rd. The stock in the D. M. N. & W. R. R. Co. represented by Certificate #6 for 3498 shares in the name of Roswell Miller, Trustee, to be immediately re-issued in the name of the C. M. & St. P. Ry. Co.

4th. Roswell Miller and F. M. Hubbell are to meet in New York on or about the 6th of December prox. and at that time and place the contract entered into on the 15th day of March, 1894, between Frederick M. Hubbell, individually and Frederick M. Hubbell & Son co-partners, the Chicago, Milwaukee & St. Paul Railway Company, and Roswell Miller, Trustee, is to be endorsed by Mr. Miller as President of the C. M. & St. P. Ry. Co., and as Trustee, to the effect that the contract has been complied with in all its terms, upon the part of F. M. Hubbell and F. M. Hubbell & Son.

5th. Simultaneously with the transaction set out in #4 F. M. Hubbell & Son for themselves, and for others whom they represent, will sell and deliver to your company D. M. N. & W. R. R. Co. first mortgage bonds to the amount of \$2,150,000, par value, and shares of capital stock in said company to the amount of \$1,392,600 par value, together with shares of said capital stock to the amount of \$481.00 being part of the stock represented by Certificate #8, issued to Roswell Miller, Trustee, upon which the C. M. & St. P. Ry. Co. has an option to purchase, under the contract of March 15th, 1894, for a sum of money equal to 85% of the par value of the 2150 bonds, together with accrued interest on said bonds up to date of delivery thereof, which sum is to be paid to F.

M. Hubbell & Son in cash at the National Park Bank in the City of New York, and the above mentioned stock is to be then and there re-issued in the name of the C. M. & St. P. Ry. Co. that company to furnish the necessary revenue stamps for the transaction.

Please acknowledge receipt hereof, and confirm the same.

Yours truly,

F. M. HUBBELL.

888

#### Defendants' Exhibit 414.

Chicago, Milwaukee & St. Paul Railway Co.

Office of the President.

Chicago, Nov. 23rd, 1898.

F. M. Hubbell, Esq.,

President, D. M. N. & W. R. R. Co.,

Des Moines, Iowa.

Dear Sir:—

I am in receipt of your favor of the 22nd instant, stating the terms of the trade pending between F. M. Hubbell & Son and our company.

Your statement of your understanding of the terms is correct.

Yours truly,

HOSWELL MILLER,  
President.

### Defendants' Exhibit 414a.

### The Wabash Railroad Company.

General Solicitor's office.

Wells H. Hodggett, Gen'l Solicitor.

St. Louis, Nov. 25, 1898.

Joseph Hanney, Jr.,

Vice President & General Manager.

Dear Sir:—

I return herewith draft of contract between Des Moines Union Railway Company and Iowa Central Railway Company, for use of the Des Moines terminals. The contract, with one or two exceptions, seems all right.

Section 15 seems to introduce something new, and I do not know exactly what it means. It seems to contemplate the receipt of revenue by the Terminal Company from depot privileges, rents of offices in stations, switching, and for the use of real estate, and provides that those revenues shall be used by the Terminal Company either as a working capital; in the payment of its floating debt, or the enlargement or betterment of its terminal properties.

Now, if the Terminal Company, has, under its several contracts already made, revenues from the several sources named, it would seem all right for it to apply them to the discharge of the indebtedness named, or to the betterment of its terminals. But why put anything about that matter in this contract? The Terminal Company, like any other corporation, or individual, has the right, without any covenant to that effect with a tenant, to use its income in paying its debts, or improving its property. So, if that section is merely intended to give the Terminal Company the right to pay its own debts

with its own money, I think it might as well be left

out. If, on the other hand, this new section is intended by any sort of inference or construction, to confer upon the Terminal Company a right to collect rentals and make switching charges that are not authorized under contracts with its present tenants, then I think it might as well be omitted, because if anything is to be done that will change their agree-

ments or the relations of the present tenants to the Terminal Company, the matter is one to be taken up directly with the present tenants, and whatever changes are to be made, that are to affect them, should be made in their contracts, rather than in this one. As to whether there should be any changes in the existing contracts, I now express no opinion.

Again, there is apparently a conflict between Sections Two and Three and Section Sixteen of the agreement as written. Section 2 provides, "that at the expiration of each month there shall be ascertained the expense of maintaining, repairing, and renewing the terminal property, including the maintenance, repair and renewal of \* \* depots," which language includes, as I would think, both passenger depots and freight depots. The same section also provides that "there shall likewise be ascertained the costs and expenses, of every nature, connected with the operation of said terminal property including freight and passenger depots."

The 3rd section then provides that having ascertained those amounts, there shall be deducted from the sum of all said expenses, the rental paid by the "Great Western Company," and that the Iowa Company shall then pay that part of the remainder, which bears the same proportion to the whole of said remainder, that the wheelage of the Iowa Company bears to the entire wheelage of the Wabash Company, the Des Moines Northern & Western Company and the Iowa Company.

Now it seems to me as though the above sections (2 and 3) were complete and were intended to fix, among other things, the exact measure to which the Iowa Company was to contribute to the cost of maintaining, repairing, renewing and operating the Passenger Station.

But, you will notice, that in Section Sixteen the extent to which the Iowa Company is to contribute to the expenses of the Passenger Station, is specifically defined and limited to the items there enumerated. As to whether the covenants in Sections 2 and 3, or those in Section 16, should prevail, I express no opinion. I simply say, I do not think they are the same. If they are, the same, then one of them should be stricken out. And if they are not the same, and it is the desire to retain the provisions of Section 16, then Section 2 should be so amended as to make that fact clearly appear.

I think that might be done by inserting after the word "Company" in the first line of Sec. 2, the words, "except as

provided in Section 16." The first paragraph of Section 2 would then read as follows:

"Sec. 2. The Iowa Company, (except as provided in Section 16, agrees to pay to the said Des Moines Company, monthly, a sum of money to be ascertained as follows, to-wit: "

Not being familiar with the reasons for the insertion of Section 16, I am not prepared to give any opinion with respect to it, but, in the absence of some very good reason, that has not occurred to me, I would think the contract more complete and satisfactory with Section 16 omitted.

Very truly yours,

WELLS H. BLODGETT.

### Defendants' Exhibit 415.

**Des Moines, Northern & Western Railroad Company.**

President's Office.

F. M. Hubbell,  
President.

Des Moines, Iowa, November 26, 1898.

Mr. Russell Miller, President,  
C. M. & St. P. Ry. Co.,  
Chicago.

Dear Sir:—

I have your two letters of November 22nd. We have sent to Mr. Myers all of the right of way deeds and condemnation proceedings that we have of the Fonda line and the Boone line, together with the record books of the right of way of both lines, also a map of the Fonda line. There is no map in existence of the Boone line.

I herewith enclose you a copy of the articles of incorporation of the Des Moines Union Railway Company.

In regard to the Des Moines Union Ry. Company's property, will say that it extends across the city of Des Moines as it existed prior to 1890, viz. from the east line of section 2, township 78, range 24, to west 28th street, a distance of 4 miles.

The recital in the terminal contract adopted May 10th 1899 is an error.

The Des Moines, Northern & Western Railroad extends from west 28th street to Fonda, with a branch from Clive to Boone.

894 Its total mileage is 145.643 miles. It owns \$100,000. of the capital stock of the Des Moines Union Railway Company, being one-fourth of all of the capital stock of that company outstanding.

Kindly acknowledge receipt.

Yours truly,

F. M. HUBBELL,  
President.

895

**Defendants' Exhibit 416.**

**Chicago, Milwaukee & St. Paul Railway Co.**

Office of the President.

Roswell Miller,  
President.

Chicago, Nov. 28, 1898.

F. M. Hubbell, Esq.,  
President D. M. N. & W. R. R. Co.,  
Des Moines, Iowa.

Dear Sir:—

I am in receipt of your favor of the 26th inst. enclosing copy of the articles of incorporation of the Des Moines Union Railway Company, and note what you say in regard to the extent of the property of that company.

I expect to be in New York on December 8th.

I am informed by Mr. Bond that he has made a deal with General Dodge for the purchase of all his bonds at 85 and his stock, also the 29 bonds of the Dillon estate at 75, and he thinks that the bond owned by Humphreys, Terry and the Pullman Company, and others, will also be put in at 75. I have also an order, signed by Dodge upon F. M. Hubbell & Son, authorizing them to turn over all shares belonging to him, including the shares covered by the option which are held by me in trust. I shall take this with me to New York. I should be glad if you would send me a copy of the contract with the Postal Telegraph Company.

Yours truly,

ROSWELL MILLER,

896

**Defendants' Exhibit 417.****Chicago, Milwaukee & St. Paul Railway Company.****Subject:****Secretary's Office.****D. M., N. & W. Papers.**

P. M. Myers,  
Secretary.

Milwaukee, Nov. 28th, 1898.

Mr. F. M. Hubbell,  
President D. M., N. & W. R. R. Co.,  
Des Moines, Iowa.

Dear Sir:—

I am in receipt of two boxes which you sent to me by United States Express, one containing right of way deeds and papers of the Des Moines, Northern & Western R. R. Co., and the other containing plat book of the Fonda line, also two right of way record books, one of the Fonda line and the other of the Boone line.

Yours truly,

(Signed) P. M. MYERS,  
Secretary.  
C

E. W. C.

897

**Defendants' Exhibit 418.****Chicago, Milwaukee & St. Paul Railway Co.****Office of the President.**

Chicago, Dec. 2nd, 1898.

F. M. Hubbell, Esq.,  
President, D. M., N. & W. R. R. Co.,  
Des Moines, Iowa.

Dear Sir:—

I observe that the contract between the Des Moines Union Railway Company and the Des Moines, Northern & Western Railroad Company is only for 20 years. I think it should be for 50 years. Have you any objection to extending it for so long?

Yours truly,

(Signed) ROSWELL MILLER,  
President.

**Defendants' Exhibit 419.****Chicago, Milwaukee & St. Paul Railway Co.**

Office of the President.

Roswell Miller, President.

Chicago, Dec. 2nd, 1898.

F. M. Hubbell, Esq.,

President D. M. N. &amp; W. R. R. Co.,

Des Moines, Iowa.

Dear Sir:—

Please send me copy of your express contract, and of any trackage contracts that you may have.

I understand from Mr. Myers that in many places the terminus of the Des Moines, Northern & Western road is stated as being at Farnham street in Des Moines. How is this?

Yours truly,

ROSWELL MILLER, President

**Defendants' Exhibit 420.****Des Moines Northern & Western Railroad Co.**

President's Office, Des Moines, Iowa.

F. M. Hubbell, President.

December 3, 1898.

Mr. Roswell, Miller, President,

C. M. &amp; St. P. Ry. Co., Chicago.

Dear Sir:—

I have yours of the 2nd inst. asking for a copy of our express contract. I now enclose to you a copy of that contract.

In regard to the ownership of the road between Farnham Street and 28th Street, there is this to be said, that a part of the right-of-way was deeded to the St. Louis, Des Moines & Northern Ry. Company, and a part of it to the Des Moines Union Ry. Company. Another contract stands in the name of James F. How, as Trustee for the Des Moines & St. Louis R. R. Company, and certain other rights were acquired by the Des Moines & St. Louis R. R. Company, in a contract made with the Chicago, Rock Island & Pacific Ry. Company.

I will take with me to New York, a map of this portion of the road, showing as well as I can, about the right-of-way deeds.

As the Des Moines Union Ry. Company has title to by far the greater part of the right-of-way to 28th Street, it has been understood between the Des Moines Union Ry. Company and the Des Moines, N. & W. R. R. Company, that the Des Moines Union's property extends to 28th Street, and that the Des Moines, N. & W. R. R. Company's property commences at the same point.

900 We have no trackage contracts except the lease with the Des Moines Union Ry. Company, a copy of which we gave to your Mr. Adams.

Yours truly,

(Signed) F. M. HUBBELL.

Delivered a map of D. M. Union from 12th Str. to 28th Str. to Roswell Miller and Frank S. Bond in New York, Dec. 8, 1898. It had names of grantee on each tract.

(Signed) F. M. HUBBELL.

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**Defendants' Exhibit 421.**

901 Hotel Netherland  
59th Street and 5th Avenue,  
New York.

Hotel Walton  
Broad and Locust Streets  
Philadelphia

Mansion House,  
Buffalo, N. Y.

Hotel Imperial  
Broadway & 32nd Street,  
New York.

Stafford & Whitaker  
Absolutely Fire-Proof.

Dec. 8<sup>th</sup>, 1898.

Dear Bro. & Son:

Miller got in this A. M., 11 o'clock and said he was ready to pay if I would write him a letter that the D. M. N. & W. R. Co. should have a contract with D. M. Union same as the present for 50 or 100 years. I told him that would not give the stock a chance to grow in value, besides I could not speak for Mr. Ramsey, that R. would no doubt want as good a contract as Miller got. Miller & Bond pressed me hard to sign a letter which would make the Union stock worthless in our hands. I was not willing to do it without consulting you. I have agreed to go and see Mr. Ramsey and try to make a 100 year contract, the compensation to be adjusted every 25 years, but it must also suit us. They thought we wanted the money so had we would sign the letter. They had all of Dodge's

stock and all of Martin's stock and had it reissued to the C. M. & St. P.

Martin .....276,200

Dodge.....232,100

\$ 508,300

Their 40% is ....1,749,000

Total owned by

C. M. & St. P.. 2,257,300

$\frac{1}{2}$  of all the stock

is .....2,186,250

C. M. & St. P. have

a majority of .. \$71,050

and also owns \$175,600 contributed by Martin & Dodge  
902 toward the 15% so they can elect the next Board of Directors of D. M. N. & W. R. R. and two Directors of D. M. Union Ry. in Jan'y. They are anxious to have the lease made and I have told them that I would go right at it, but not in such a way as to make D. M. Union stock worthless. We must decide now what is necessary to make our stock valuable.

Yours truly,

(Signed) F. M. HUBBELL

903

**Defendants' Exhibit 422.**

Nov. 29, 1898.

Mr. J. Ramsey, Jr.,

V. P. & G. M. Wabash R. R.,

Chicago, Illinois.

Dear Sir:—

Enclosed herewith I hand you a copy of the contract of the D. M. Union Ry. Co. with the Chicago Great Western and a copy of the Gilcrest and of the Getchell contracts. I will endeavor to have Mr. Cummins write a short opinion respecting both contracts and will send it to you at St. Louis. He is very busy in the trial of some important cases at this time and it is very difficult to get to him. Would thank you very much for prompt reply from Chicago giving me your views.

Yours truly,

F. C. HUBBELL

Pres.

904

**Defendants' Exhibit 423.**

**Des Moines Union Railway Co.**

F. M. Hubbell, Secy.  
Des Moines, Iowa.

December 20, 1898.

Mr. J. Ramsey, Jr., V. P. & Genl. Mgr.,  
Wabash R. R. Co., St. Louis, Mo.

Dear Sir:—

Hoyt Sherman, Assignee, made a deed to James F. How, Trustee, on the 26th of November, 1883, for the consideration of \$2373.00 which deed is recorded in Book 138, Page 13, and covers about three-eighths of a mile of right-of-way in the west part of the city.

We find no deed to the Des Moines Union Railway Company for this piece of land. There was a declaration of trust signed by Mr. How about the year 1882. I wish you would send me a copy of this declaration of trust, and make any suggestions that you think will assist in perfecting the record title to this land, in the Des Moines Union Ry. Company.

Yours truly,

(Signed) F. M. HUBBELL,  
Secretary.

905

**Defendants' Exhibit 424.**

**The Wabash Railroad Company.**

Office  
J. Ramsey, Jr., Vice Pres't &  
Gen'l Manager.

St. Louis, Mo., Dec. 21st, '98.

Mr. H. A. Lloyd,  
Ass't Sec'y and General Claim Agent.

Dear Sir:

Referring to the attached letter from Mr. F. M. Hubbell, Secretary of the Des Moines Union Railway; can you furnish a copy of the deed of trust made by Mr. James F. How as herein referred to?

Yours truly,

(Signed) J. RAMSEY, JR.,  
V. P. & G. M.

**Defendants' Exhibit 425.****Chicago, Milwaukee & St. Paul Railway Co.****Office of the President.**

Roswell Miller,

President.

Chicago, Dec. 21st, 1898.

F. M. Hubbell, Esq.,

President, D. M. N. &amp; W. R. R. Co.,

Des Moines, Iowa.

Dear Sir:—

I am in receipt of your favor of the 20th inst., and note that the matter of preparing the lease between the Des Moines Union Railway Company and the Des Moines, Northern & Western Railroad Company is in the hands of Mr. Cummins. I hope he will expedite the matter.

What did Mr. Ramsey say about it?

Yours truly,

(Signed)

ROSWELL MILLER,

President.

**Defendants' Exhibit 426.**

Dec. 22nd, '98.

Mr. F. M. Hubbell,

Sec'y., Des Moines Union Ry.,

Des Moines, Ia.

Dear Sir:

Replying to your favor of the 20th inst., I beg to invite your attention to the next attached from our Ass't. Secretary regarding the declaration of trust about which you are making inquiry. Note that he is unable to find any record of it from the particulars given in your letter. Will you kindly give the further information asked for by him and that may enable him to locate it.

Yours truly,

J. RAMSEY, JR.,

V. P. &amp; G. M.

**Defendants' Exhibit 427.****The Wabash Railroad Company.**

Henry A. Lloyd,

Asst. Secretary and General Claim Agent.

St. Louis, Dec. 22, 1898.

Mr. J. Ramsey, Jr.,

Vice President &amp; General Manager.

Dear Sir:—

Neither this office nor the Chief Engineer's Dept. can find the declaration of trust referred to by Mr. F. M. Hubbell in

the accompanying correspondence, covering  $\frac{3}{8}$  mile of right of way in west part of the City of Des Moines. If Mr. Hubbell can furnish us a better description, giving say the city blocks, if any which are traversed by the right of way, or will give us a description of the property as set out in the deed recorded in Book 138, page 13 we will make an effort to locate it. The only declaration of trust executed by James F. How, trustee, referred to in any records in this office is dated July 19, 1887, and was sent to Mr. W. S. Lincoln Chief Engineer, by Col. How himself on November 27th, 1891, and the property Mr. Hubbell is inquiring about may be included in that declaration of trust but that fact can not be ascertained until a more definite description of the lots and blocks is given.

Yours truly,

(Signed) H. A. LLOYD,  
Asst. Secretary.

#### **Defendants' Exhibit 428.**

#### **Des Moines Union Railway Co.**

F. M. Hubbell, Secy.  
Des Moines, Iowa.

December 23, 1898.

Mr. J. Ramsey, Jr., V. P. & Genl. Manager,  
Wabash R. R. Company, St. Louis, Mo.

Dear Sir:—

I have yours of December 22. The description of the land conveyed by Hoyt Sherman, Assignee, to James F. How, Trustee, dated November 26th, 1883, recorded in Polk County records Book 138, Page 13 is as follows:

"Commencing at a point on the section line eighteen hundred and eighty-three feet south of northwest corner of Section No. Eight in Township No. Seventy-eight (78) North Range No. Twenty-four (24) West; thence north  $61\frac{1}{2}^{\circ}$  east on a line parallel to and fifty (50) feet from the center line of the St. Louis, Des Moines and Northern R. R. Track as now constructed Five Hundred and Seventy-eight (578) feet; thence north  $64\frac{1}{2}^{\circ}$  east Eight Hundred (800) feet; thence north Fifty-eight  $58^{\circ}$  east Eight Hundred Seventy-two (872) feet to the east line of lot No. Four (4) of the Official Plat of the North West quarter of said Section No. Eight (8); thence south along said line One Hundred and Twenty-five (125) feet to the north line of the right of way of the C. R. I. & P. R. R. Co.; thence south  $55^{\circ}$  West along said right of way line (which is 50 feet from center of track) Twenty-three hundred and Thirty (2330)

feet to the Section line; thence north along the Section line Three Hundred and fifteen (315) feet to the place of beginning."

I think there was a declaration of trust signed by Mr. How, dated January 2, 1882. I have not a copy of it but I find among the records of the Des Moines Union Company, notice of the existence of such a declaration of trust.

If you find that the declaration of trust dated July 19, 1887 covers the description above given, I would be obliged to you if you would furnish me a copy of that declaration of trust.

I herewith return the letter of Mr. Lloyd.

Yours truly,

(Signed) F. M. HUBBELL, Secretary.

enc.

910

**Defendants' Exhibit 429.**

**The Wabash Railroad Company.**

Office.

J. Ramsey, Jr.,

Vice President & Gen'l Manager.

St. Louis, Mo., Dec. 24th, 1898

Col. W. H. Blodgett,

General Solicitor.

Dear Sir:—

Please note the attached from Mr. Hubbell.

Can you turn up the declaration of trust signed by Mr. How, dated January 2nd, 1882, covering the property referred to in Mr. Hubbell's letter?

Yours very truly,

(Signed) J. RAMSEY, Jr.,

Vice-President and Gen'l Manager.

911

**Defendants' Exhibit 430.**

**Terminal Contract.**

between the

Des Moines Union Railway Co.

and the

Des Moines, Northern & Western Railroad Company.

This Agreement, made and entered into this..... day of December, A. D. 1898, by and between the Des Moines Union

1773  
Railway Company, a corporation organized and existing under the laws of the State of Iowa, and hereinafter termed "Des Moines Company", party of the first part, and the Des Moines, Northern & Western Railroad Company, a corporation organized and existing under the laws of the State of Iowa, and hereinafter termed "Des Moines, Northern & Western Company," party of the second part, Witnesseth: That

Whereas the Des Moines Company now owns and operates a terminal line of railway in the City of Des Moines, Iowa, extending from the east line of Section two (2), Township seventy-eight (78), Range twenty-four (24), in said city of Des Moines, westward to West Twenty-eighth Street in said City, and has acquired or constructed main and side tracks, depots, depot grounds, lands, yards, shops, round houses, freight houses, and other terminal facilities, and intends to  
912 acquire and construct other facilities of that character; and

Whereas the said terminal facilities of the Des Moines Company, or a portion thereof, are now used by each of the following named railroad companies, to-wit: The Wabash Railroad Company, the Chicago Great Western Railway Company and the Des Moines, Northern & Western Railroad Company, under contracts heretofore executed; and

Whereas there now exists a contract, entered into on the 10th day of May, 1889, by and between the said Des Moines Company, the Des Moines & St. Louis Railroad Company, The Des Moines & Northwestern Railway Company and the St. Louis, Des Moines & Northern Railway Company, and continuing for a period of thirty years from the 1st day of May, 1888, providing for the use of said terminal facilities and the compensation to be paid therefor, which last named contract was modified in part and confirmed in part by an agreement entered into on the 31st day of July, 1897, between the said Des Moines Company, the Wabash Railroad Company and the said Des Moines, Northern & Western Company; and

Whereas the parties hereto desire to enter into a contract looking to the use of the said terminals by the said Des Moines, Northern & Western Company for a period of thirty years from and after the expiration of the said agreement so entered into on the 10th day of May, 1889, and expiring  
913 on the 30th day of April, A. D. 1918, to the end that during the said period of thirty years the said Des Moines, Northern & Western Company may have and enjoy the right to use the said terminal railway of the said Des Moines Company, or a part thereof, under the terms and conditions hereinafter set forth, and in common with such rail-

way companies as may have now acquired or may hereafter acquire the right to use the same, and so make the terminals of the said Des Moines Company the terminals of the said Des Moines, Northern & Western Company during the whole of said period.

Now Therefore, in consideration of the premises and the mutual covenants and undertakings herein contained, it is agreed between the parties hereto as follows, to-wit:

Section 1. The said Des Moines Company, in consideration of the payments to be made to it by the said Des Moines, Northern & Western Company as hereinafter specified, hereby grants to the said Des Moines, Northern & Western Company the use, for a period of thirty (30) years beginning on the 1st day of May, 1918, in common with such other railway companies as now have or may hereafter acquire the right to use the same, of its said terminal railway, with all the facilities and appurtenances thereunto belonging, except that part of said terminal property, the exclusive use of which has been heretofore granted to the Chicago Great Western Railway Company under and by virtue of an agreement entered into between the said Des Moines Company and the said Chicago Great Western Railway Company, bearing date July 2nd, A. D. 1896.

The above grant shall include the use of the passenger station buildings now in existence or hereafter constructed, and shall include the right to receive and discharge passengers and baggage, the right to receive and discharge express matter, the use of the said passenger stations by passengers, and the services of the necessary employes, baggagemen and ticket agents, but shall not extend beyond the ordinary use of stations for passenger traffic. It shall also include such terminal tracks, switches, buildings, structures and appurtenances as shall be hereafter added to the said terminal property; provided, however, that if the said Des Moines Company shall exclusively lease any hereafter acquired property to any railway company which may enter said terminals after the date of this contract, no part of the cost of such property shall be considered in determining the rental to be paid by the said Des Moines, Northern & Western Company as hereinafter specified and provided.

And the said Des Moines Company agrees to keep and maintain said terminal property in good condition and repair, and to provide and maintain all such engines, machinery, appliances, buildings and structures, and all such servants  
915 and employes, as shall be reasonably necessary for the conduct of its business and the moving and handling of

the cars, passenger and freight, of the said Des Moines, Northern & Western Company, and the housing and care of its engines; and the said Des Moines Company further agrees to switch all cars, handle all freight, and house and care for all engines of the said Des Moines Northern & Western Company which may be delivered to it or which may come upon its said property, in so far as the said Des Moines, Northern & Western Company may request it so to do.

Sec. 2. The said Des Moines, Northern & Western Company agrees that it will, in each month of the said period of thirty years, pay to the said Des Moines Company in the manner hereinafter specified a sum of money to be ascertained as follows, to-wit:

First. There shall be ascertained each month the amount required to pay five per centum upon the whole cost to the said Des Moines Company of its said terminal property as it then exists, and one-twelfth thereof, less any deduction hereinafter provided for, shall be payable monthly during the said period to the said Des Moines Company as hereinafter specified; and for the purpose of fixing a basis for the ascertainment of such cost it is expressly agreed between the parties hereto that the cost of the said terminal property at the date of the execution of this contract is One million, one hundred and forty-nine thousand, seven hundred and thirty-one and nine-one-hundredths (1,149,731.09) dollars, and in ascertaining the cost in the several months during the said period of thirty years there shall be added to the said sum of One million, one hundred and forty-nine thousand seven hundred and thirty-one and nine-one-hundredths (1,149,731.09) dollars the cost of all additions and betterments made after the date hereof; and it is further expressly agreed by the parties hereto that such additions and betterments shall embrace all those expenditures of the said Des Moines Company which are ordinarily and according to the custom of railway companies charged to Construction Account, and that hereafter the said Des Moines Company shall keep a Construction Account in the regular books according to the said custom and practice, and the said account as shown by the said books shall be accepted by the parties in any controversy respecting such subject as prima facie evidence of the cost of the said terminal property from and after the date of this contract; provided always that the said sum of One million, one hundred and forty-nine thousand, seven hundred and thirty-one and nine-one-hundredths (\$1,149,731.09) dollars is agreed upon finally and conclusively as the cost of the said terminal property at the date of this contract.

Second. At the expiration of each month of said period  
917 or as soon thereafter as practicable, there shall be as-  
certained the expenses of maintaining, repairing and  
renewing the terminal property of the Des Moines Company,  
including the maintenance, repair and renewal of tracks, de-  
pots, round houses, engine houses, and all and every kind of  
property owned and used by the Des Moines Company during  
the preceding month; and in like manner there shall be as-  
certained the taxes, general or special, levied upon or against  
all the property of the Des Moines Company and paid during  
the preceding month, or to be paid during the next succeeding  
month, and the insurance, if any, paid during the preceding  
month, or to be paid during the next succeeding month.

Third. There shall be likewise ascertained the costs and  
expenses of every nature connected with the operation of said  
terminal property, including freight and passenger depots, de-  
pot grounds, round houses, transfers, tracks, and every other  
property or appurtenance thereof, which is to include every  
item of expense or disbursement incurred or made by the Des  
Moines Company not hereinbefore mentioned.

Sec. 3. Having so ascertained the monthly aggregate of all  
the items and sums mentioned in the preceding section, there  
shall be deducted therefrom the amount, if any, which other  
tenant railway companies may then be under obligations to  
pay to the Des Moines Company for the use of the herein de-  
918 mised property, or parts thereof, for the preceding  
month, and the said Des Moines Northern & Western  
Company shall pay the remainder to the said Des  
Moines Company; said payments to continue monthly, as  
aforesaid, during the said period of thirty years, and all pay-  
ments herein provided for shall be made in gold coin of the  
United States of or equal to the present standard of weight  
and fineness.

Sec. 4. If the amount or any part of the amount due from  
a railway company or railway companies using or occupying  
the said terminal property under a contract or contracts with  
the said Des Moines Company is not paid when due, then the  
sum so due and unpaid shall also, on demand of the said Des  
Moines Company, be paid to it by the said Des Moines,  
Northern & Western Company, and if it is thereafter paid by  
such other company or companies, then the same shall be re-  
funded to the said Des Moines Northern & Western Company.

Sec. 5. The Des Moines Company shall, on or before the  
tenth day of each month of said period, or as soon thereafter  
as practicable, make up and present to the Des Moines, North-  
ern & Western Company an account showing the amount due

hereunder for the preceding month, and payment thereof shall be made within ten days thereafter.

Sec. 6. If the said Des Moines, Northern & Western Company shall for any reason fail or refuse, for a period of sixty days after the account is rendered as aforesaid and the same is due, to pay any of the several sums provided in this contract to be paid, then the Des Moines Company may take from any money in its hands or in the hands of its agents belonging to the Des Moines, Northern & Western Company the amount so due, and apply sufficient thereof to meet said demand or demands, and if the sum so taken be insufficient to pay the amount due under this agreement, and the same shall still remain unpaid, the Des Moines Company shall have the right to forfeit, cancel and annul this contract; but it is expressly understood and agreed that nothing herein contained shall prevent the Des Moines Company from enforcing its demand or demands against the said Des Moines Northern & Western Company by any proper action, either at law or in equity, or from recovering the amount which may at any time be due or unpaid, if it shall so elect.

Sec. 7. The management of the said terminal property, including stations, buildings, tracks, round houses, shops, etc., shall be in charge of a Superintendent of the Des Moines Company, who shall in the performance of his duties be governed by such regulations as may from time to time be established by the Des Moines Company. The salary of said Superintendent and the compensation of other agents and employees of the Des Moines Company shall not be higher than are paid by railway companies in the vicinity for similar services.

Sec. 8. It is mutually agreed that the use hereby granted of the said terminal property to the said Des Moines, Northern & Western Company shall be without preference or unreasonable precedence for or to the Des Moines, Northern & Western Company, or any lessee using or occupying the said terminals, in the matter of train schedules or in the handling or switching of cars and trains, and the occupancy of depots or the occupancy of said property or any part thereof, so far as respects the services herein agreed to be performed; always, however, to be subject to such reasonable control and discretion by the Des Moines Company as may be necessary to avoid confusion and to expedite the management of the business; and the said Des Moines Company shall from time to time make, publish and enforce such rules and regulations for the use, management and operation of said terminal property by all the parties using the same as may be reasonable, and as it may from time to time consider necessary.

Sec. 9. The Des Moines Company shall keep accurate books of account showing in detail all the expenditures made by it, and said books shall give such details of the business of the said Des Moines Company as will at all times enable the parties hereto to make accurate settlements of their accounts as provided for in this agreement; and said books may at all reasonable and proper hours be examined and inspected by the Superintendent of the said Des Moines, Northern & Western Company, or by any competent accountant in its employ. The said Des Moines Company shall also keep  
921 such record as will enable it at all times to ascertain the amount paid to it or becoming due to it under contracts from other railway companies for the use of the said terminals or any part thereof, to the end that it may at all times be accurately known what amounts, if any, are to be deducted in each month of the said period from the entire sum ascertained in the manner provided for in Section 2 hereof.

Sec. 10. All damages which may be received by any engine or engines, car or cars, of either party hereto, while being switched by the said Des Moines Company at or upon any part of the premises embraced in this agreement, shall be repaired by the Des Moines Company for the party to whom such rolling stock belongs, and the cost of such repairs shall enter into the sum to be ascertained as provided in Sec. 2 hereof.

Sec. 11. All damages to property other than as above described caused by any engine or engines, car or cars, of any railway using said terminals, or by any imperfection in the track or tracks laid upon said premises, and all injuries which may at any time be received by any person or persons in, around, about or upon said premises, shall, if settled at all, be settled and adjusted by the Des Moines Company, and the sum or sums thus paid in settlements shall enter into the sum  
so to be ascertained under Section 2 hereof. Pro-

922 vided however that no settlement involving more than five hundred dollars shall be made of any claim for personal injury or death except with the consent and approval of the said Des Moines Northern and Western Company. (The preceding underscored words are in the handwriting of Roswell Miller.) And Provided, further that the said Des Moines, Northern & Western Company shall at its own sole cost and expense bear, settle and pay all damages to property belonging to itself, to the said Des Moines Company, or to third persons, and all injuries to persons, when said damages or injuries are done to or by its own trains while said trains

are being moved by its own engines and operated and controlled by its own crews, unless such damages or injuries are occasioned by the neglect or fault of the servants of the Des Moines Company, or by some imperfection in its track or tracks, and in case such damages or injuries are occasioned by the act, negligence or fault of the Des Moines Company, or by any imperfection in said tracks, then settlements and payments shall be made by the Des Moines Company as in this section first provided.

Sec. 12. All persons employed and paid, either permanently or temporarily, by said Des Moines Company in the maintenance and operation of said terminals, shall be deemed and taken to be the employees and servants of the Des Moines Company only.

Sec. 13. The Des Moines, Northern & Western Company agrees that it will, during the whole of the said period  
923 of thirty years, use the said terminals for all its passenger and freight trains destined to or departing from said City of Des Moines, Iowa.

Sec. 14. The revenue of the Des Moines Company from depot privileges, rents of offices in Union Station, or other depots, switching, passenger business done on its own behalf and rents from real estate, and miscellaneous earnings shall belong absolutely to the said Des Moines Company, and shall not be considered in the ascertainment of the sum provided for in Section 2 hereof. (Opposite this section on the margin are the words: in the handwriting of Mr. F. M. Hubbell: "Objected to by Roswell Miller, Dec. 27 1898")

Sec. 15. It is further agreed that if the said Des Moines Company shall hereafter be required to construct, or if it shall desire to construct a viaduct or viaducts over or under any of its tracks upon any public street or alley for the protection or convenience of the public, or if by municipal, legislative or other legal action it shall be required to make changes or modifications in any of its said tracks, bridges and appurtenances for the safety and convenience of the public, then the cost of constructing any such viaduct or of making any such change or modification shall be entered in said Construction Account, and shall be considered and held to be a part of the cost of the said terminal property.

924 Sec. 16. If at any time there shall arise any dispute with reference to any account rendered by the said Des Moines Company to the said Des Moines, Northern & Western Company, all claimed omissions or errors in such account or accounts, and all exceptions thereto which may be taken by the said Des Moines, Northern and Western Company, shall

be subsequently adjusted between the parties, but shall not delay the prompt payment of the said account or accounts as rendered by the said Des Moines Company.

Sec. 17. In case any difference shall hereafter arise between the parties hereto concerning the management of said terminal station, depots, grounds, yards, tracks and other terminal facilities of the said Des Moines Company, with respect to any matter not herein provided for or concerning any other matter or thing connected therewith but not herein expressly provided for, or concerning any of the accounts of said Des Moines Company, such differences shall be referred to three competent men experienced in railroad management, who shall, as soon as practicable after they are chosen, proceed to examine and determine what would be just and equitable for each of said parties to do in and about the matter in dispute. Each party shall choose one of said arbitrators and the two thus chosen shall select the third arbitrator and the decision in writing of a majority of said arbitrators  
 925 with respect to the matter submitted shall be furnished to and be thereafter binding upon each of the said parties. Provided, however, that such differences shall have no effect on the course of business at said terminal station, depot grounds, yards, etc., until the final decision of said arbitrators shall be made; but such business shall continue to be transacted, and such settlements and payments as are herein provided for shall be made as before, until the matter in dispute shall be determined by the said arbitrators, and thereupon such payments or restitution shall be made as may be required by the decision of said arbitrators. (Opposite this section on the margin are the words in the handwriting of Mr. F. M. Hubbell: "Mr. Geo. R. Peck prepared a new section No. 17 which is hereto attached. Mr. Miller objected to this one. F. M. Hubbell.")

Sec. 17. In case any difference shall arise between the parties hereto concerning the management of said terminal station, depots, grounds, yards, tracks and other facilities of the said Des Moines Company, or in respect to the accounts of said Des Moines Company, or in respect to any other matter or thing growing out of this contract or the relations of the parties hereto under the same, such differences shall be referred to three competent men, experienced in railroad management, to be selected as hereinafter provided. That is to say, the party desiring an arbitration shall name one competent person to act as arbitrator, and shall notify, in  
 926 writing, the opposite party of such selection, and said opposite party shall, within thirty days from the receipt of such notice, name a second competent person as arbi-

trator, and the two persons so named as arbitrators shall, within fifteen days thereafter, name a third competent arbitrator. If either party shall for thirty days after being notified of the selection by the other party of an arbitrator neglect or refuse to appoint a second arbitrator, then the arbitrator first appointed may select a second arbitrator, and the two arbitrators so selected shall select a third. The three arbitrators shall, as soon as practicable after they are chosen, proceed to examine and determine the matter in dispute, and shall decide what is just and equitable in respect thereto, and a decision in writing of a majority of said arbitrators with respect to the matter submitted shall be furnished to and be thereafter binding and obligatory upon each of said parties. Provided, however, that such differences shall have no effect on the course of business at said terminal station, depot grounds, yards, etc., until the final decision of said arbitrators shall be made; but such business shall continue to be transacted, and such settlements and payments as are herein provided for shall be made as before, until the matter in dispute shall be determined by the said arbitrators, and thereupon such payments or restitution shall be made as may be

927 required by the decision of said arbitrators. (This second section 17 is in the handwriting of Mr. F. M. Hubbell, at the bottom of which are the words: "This Section No. 17 was prepared by Geo. R. Peck as a substitute for #17 as drawn by Mr. Cummins Dec. 27, 1898. F. M. H.)

(The said second section 17 is pasted onto the original contract immediately after the first section of that number.)

In Witness Whereof the respective parties hereto have caused their corporate seals to be hereunto affixed, and these presents to be signed by their respective Presidents, and attested by their Secretaries respectively, the day and year first above written.

By .....

Attest: ..... President.

.....  
Secretary.

By .....

Attest: ..... President.

.....  
Secretary.

(Attached to the contract and immediately preceding it is attached the following):

This terminal contract between the Des Moines Union Railway Company and the Des Moines Northern & Western Railroad Company was prepared by A. B. Cummins at the instance of Roswell Miller, President of the Chicago, Milwaukee & St. Paul Railway Company. Mr. F. M. Hubbell presented it to Mr. Miller and his attorney, George R. Peck, December 27th, 1898 and it was agreed to by Mr. Miller, excepting Section #14 which he wanted left out, and Section #17 was also objected to and Mr. Peck prepared a substitute for it, which is hereto attached.

With these changes made, Mr. Miller expressed himself as satisfied with the contract.

(Signed) F. M. HUBBELL.

929

### **Defendants' Exhibit 431.**

**Chicago, Milwaukee & St. Paul Railway Co.**

Office of the President.

Roswell Miller, President.

Chicago, Dec. 30th, 1898.

F. M. Hubbell, Esq.,

President, D. M. N. & W. R. R. Co.,

Des Moines, Iowa.

Dear Sir:—

At the annual meeting of the Des Moines, Northern & Western Railroad Company I desire that the following persons be elected directors: F. M. Hubbell, F. C. Hubbell, A. J. Earling, P. M. Myers, C. A. Goodnow, W. G. Collins and J. F. Gibson.

In the Des Moines Union, in which I understand we are entitled to two directors, I desire that the directors named by us shall be C. A. Goodnow and J. F. Gibson.

Yours truly,

(Signed) ROSWELL MILLER, President.

930

### **Defendants' Exhibit 432.**

**The Wabash Railroad Company.**

General Solicitor's Office.

Wells H. Blodgett, Gen'l. Solicitor.

St. Louis, Dec. 31, 1898.

F. M. Hubbell, Esq.,

Des Moines, Iowa.

Dear Sir:—

The attached correspondence has been referred to me by Mr. Ramsey. For some reason I seem to have forgotten all

about this piece of land conveyed by Hoyt Sherman to Col. How. It is my recollection that How conveyed everything to the Wabash Railroad Company, and that the Wabash Company then conveyed all to the Terminal Company. But if I understand you correctly, the record shows the conveyance of the property by Sherman to How, and no subsequent conveyance by How to any one. If that is the case, I think the matter can be arranged. I think the deed to J. F. How, 'Trustee', is the same as a deed to How individually, and that a release from Mrs. How and her two sons (both of whom are of age), would cure everything, and I believe they would be willing to sign a release if the circumstances were explained to them.

Please return the papers with any suggestions you may have to make with respect to the matter. We cannot find the declaration of trust referred to in the correspondence as having been executed by Col. How, July 19th, 1887, and the probabilities are it was burned in our office fire in October, 1897.

Very truly yours,

(Signed) WELLS H. BLODGETT.

341

### Defendants' Exhibit 433.

#### Des Moines Union Railway Co.

F. M. Hubbell, Secy.

Des Moines, Iowa.

January 3, 1899.

Mr. Wells H. Blodgett, Genl. Solicitor,  
Wabash R. R. Company,  
St. Louis, Mo.,

Dear Sir:

I have yours of December 31st, ult, with papers attached. I have prepared and now enclose a new description of the premises, which I suggest be used by you in procuring a deed from the heirs of Mr. How.

I also enclose a blank quit-claim deed for your information as to what kind of an acknowledgment to a deed, is required in this State. If the heirs of Col. How are willing to use any stronger language than the words "Quit-claim" you can insert the words "We hereby sell, convey and quit-claim."

I herewith return all papers.

Yours truly,

(Signed) F. M. HUBBELL,  
Secretary.

**Defendants' Exhibit 434.**  
**The Wabsah Railroad Company.**

General Solicitor's Office,  
Wells H. Blodgett, Gen'l Solicitor.

St. Louis, Jan. 9, 1899.

F. L. O'Leary, Esq.,  
Treasurer, Building.

Dear Sir:—

On the 26th of November, 1883, Hoyt Sherman, as assignee, conveyed to Jas. F. How, as trustee, a strip of land in Des Moines about  $\frac{3}{8}$  of a mile in length, for the sum of \$2373.00. It seems that Col. How never executed any deed to the Wabash Company or to the Terminal Company, for which the purchase was made, and in so far as the records show, the title is now in his heirs. I think Mrs. How and her two sons will be willing to execute a conveyance to the Terminal Company, but before asking them to do so, I would like, if possible, to find the check given by the Wabash Company to Hoyt Sherman. All those Terminal properties at Des Moines that were conveyed to Col. How as trustee, were paid for on Wabash vouchers and checks, and no doubt you will find this one among the checks issued in November 1883, provided your records for that period are still accessible.

Your very truly,

(Signed) WELLS H. BLODGETT.

**Defendants' Exhibit 435.**  
**The Wabash Railroad Company.**

General Solicitor's Office,  
Wells H. Blodgett, Gen'l Solicitor.

St. Louis, Jan. 23, 1899.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:—

Yours of the 21st received. I think there will be no trouble in getting quit claim, as I have now found the original vouchers to Hoyt Sherman, showing he was paid for the property by the Wabash Company. I also found letter from Col. How to Runnells, directing deed to be made to him (How) as trustee.

How about the Terminal bonds? I want to get five of them, and want to get them cheap. If any more are issued, let me know.

Very truly yours,

(Signed) WELLS H. BLODGETT.

934

**Defendants' Exhibit 436.**

**The Wabash Railroad Company.**

General Solicitor's Office,  
Wells H. Blodgett, Gen'l Solicitor.

St. Louis, March 7, 1899.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:—

Please find inclosed a quit claim deed from Mrs. James F. How and her two sons, to the strip of land in Des Moines, conveyed some years ago by Hoyt Sherman to James F. How, trustee. The deed is made to the Wabash Railroad Company, but my recollection is that the Wabash Railroad Company has already granted the property to the Des Moines Union Railway Company, so that this release will inure to the benefit of the Union Railway Company, same as though made directly to it. I have not the conveyances before me, but if any release or conveyance is necessary from the Wabash Company, you can let me know.

I also send you the original correspondence relating to the purchase and the vouchers and checks showing that the Wabash, St. Louis & Pacific Railway Company paid Mr. Hoyt Sherman for the property.

Very truly yours,

(Signed) WELLS H. BLODGETT.

935

**Defendants' Exhibit 437.**

**The Wabash Railroad Company.**

General Solicitor's Office,  
Wells H. Blodgett, Gen'l Solicitor.

St. Louis, March 18, 1899.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:—

I have today sent to Mr. Ashley quit-claim deed from Wabash Co., to Des Moines Union Ry. Co., for the bonds bought from

Hoyt Sherman. There is no danger that our new mortgage on Des Moines Division will in any event cloud your title to that tract. Will write you fully on Monday.

Very truly yours,

(Signed) WELLS H. BLAIRGETT.

936

### Defendants' Exhibit 438.

#### Quit Claim Deed.

#### Form 3.

Know all Men by These Presents:

That Mrs. Eliza A. How, James Eads How and Louis How, sole legal heirs of the Estate of James F. How, deceased, of the County (City) of St. Louis and State of Missouri in consideration of the sum of One Dollar, in hand paid by the Wabash Railroad Co. of the County of ..... and State of ..... do hereby Quit Claim unto the said Wabash Railroad Co. all our right, title and interest in and to the following described premises, situated in Polk County and State of Iowa, to-wit:

Commencing at a point on the section line eighteen hundred and eighty-three (1883) feet south of northwest corner of Section No. Eight (8) in Township No. Seventy-eight (78) North Range No. Twenty-four (24) West; thence north  $61\frac{1}{2}^{\circ}$  east on a line parallel to and fifty (50) feet from the center line of the Des Moines Union Railway Company's track as now constructed five hundred and seventy-eight (578) feet; thence north  $64\frac{1}{2}^{\circ}$  east eight hundred (800) feet; thence north  $58^{\circ}$  east eight hundred and seventy-two (872) feet to the east line of lot No. Four (4) of the Official Plat of the North West Quarter of said Section No. Eight (8); thence south along said line one hundred and twenty-five (125) feet to the north line of the right-of-way of the C. R. I. & P. Ry. Co.; thence south  $55^{\circ}$  west along said right-of-way line of said C. R. I. & P. Ry. Co. (which is fifty feet from center of track) twenty-three hundred and thirty (2330) feet to the Section line; thence north along the Section line three hundred and fifteen (3315) feet to the place of beginning."

937 And the said ..... hereby relinquishes her right in and to the above described premises.

Signed this 1st day of February, 1899.

ELIZA A. HOW	(Seal)
JAMES EADS HOW	(Seal)
LOUIS HOW	(Seal)

State of Missouri,  
City of Saint Louis—ss.

On this 1st day of February, A. D. 1899, before me personally appeared Mrs. Eliza A. How (widow) James Eads How and Louis How who declare themselves to be single and unmarried and to me known to be the persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

(Seal)

G. E. WETZEL, JR.,  
Notary Public in and for said City.

938

### **Defendants' Exhibit 439.**

Know all Men by These Presents: That the Wabash Railroad Company, a consolidated corporation of the states of Missouri, Illinois, Indiana, Ohio and Michigan, in consideration of the sum of One Dollar in hand paid by the Des Moines Union Railway Company, a corporation of the State of Iowa, has quit claimed and released, and by these presents it does quit claim and release unto the said Des Moines Union Railway Company, all its right, title, interest and estate in and to the following described premises, situated in Polk County, and State of Iowa, to-wit:

Commencing at a point on the section line eighteen hundred and eighty-three (1883) feet south of north-west corner of Section No. eight (8) in Township No. seventy-eight (78) North Range No. twenty-four (24) West; thence north  $61\frac{1}{2}$  east on a line parallel to and fifty (50) feet from the center line of the Des Moines Union Railway Company's track as now constructed five hundred and seventy-eight (578) feet; thence north  $64\frac{1}{2}$  east eight hundred (800) feet; thence north  $58$  east eight hundred and seventy-two (872) feet to the east line of Lot No. four (4), of the Official Plat of the North-west quarter of said Section No. eight (8); thence south along said line one hundred and twenty-five (125) feet to the north line of the Right of Way of the C. R. I. & P. Ry. Co.; thence south  $55$  west along said Right of Way line of said C. R. I. & P. Ry. Co. (which is fifty feet from center of track), twenty-three hundred and thirty (2330) feet to the Section line; thence north along the section line three hundred and fifteen (315) feet to the place of beginning.

In Testimony Whereof, the Wabash Railroad Company  
has caused these presents to be signed in its name

by its President and attested by its corporate seal, this 20th day of Feb. A. D. 1899.

THE WABASH RAILROAD COMPANY,

Attest

J. C. Ottenson,  
(Seal) Secretary.

By O. D. Ashley,  
President.

State of New York,

City and County of New York—ss.

Be it remembered, that on this 21st day of March, A. D. 1899, before me, the undersigned, a Notary Public within and for said City and State, came O. D. Ashley, President of the Wabash Railroad Company, who is personally known to me to be the identical person whose name is affixed to the within and foregoing instrument of writing, as President of said Wabash Railroad Company, and who acknowledged the same to be his voluntary act and deed as President of said Wabash Railroad Company, party thereto; that the seal affixed to said instrument is the seal of said corporation; that said instrument was signed and sealed by him in behalf of said corporation by authority of its Board of Directors, and that he executed the same as its voluntary act and deed for the uses and purposes therein mentioned.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

(Seal)

CHARLES W. FLINT,  
Notary Public N. Y. Co.

(Five revenue stamps attached.)

941

### Defendants' Exhibit 440.

Subject: D. M. N. & W. and D. M. F. R. R.

Des Moines, Northern & Western Railroad Company.

Secretary's Office.

Milwaukee, Jan. 16th, 1899.

Mr. F. C. Huddell,  
Des Moines, Iowa.

Dear Sir:—

If you have any printed copies of the contract between the Des Moines, Northern & Western Railroad Company and the Des Moines Union Railroad Company, I wish you would send me as many as you can conveniently spare, as I have to furnish

THE DES MOINES UNION RY. CO., ET AL.

copies to all officers who are concerned in the operation and  
profits of that road.

Yours truly,

(Signed) P. M. MYERS, Secretary.

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**Defendants' Exhibit 441.**

542

Jan'y. 16, 1899.

Mr. J. Ramsey, Jr.,  
V. P. & G. M. Wabash R. R.,  
St. Louis, Mo.

Dear Sir:—

The D. M. N. & W. occupy six rooms in the New Union  
Station for office purposes and I have told Mr. Earling that I  
thought fifty dollars per month would be a fair rental for the  
same. The Wabash occupy one office in the depot for your dis-  
patcher. I would like to have you say what you consider a  
fair rental for same, in view of the rental charged the D. M.  
N. & W. for the six rooms they occupy.

Yours truly,

F. C. HUBBELL, Pres't.

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**Defendants' Exhibit 442.**

543

**The Wabash Railroad Company.**

Office.

J. Ramsey, Jr., Vice-Pres't. and Gen'l. Manager.

St. Louis, Mo.

On Road, January 19th, 1899.

Mr. F. C. Hubbell,  
Pres't, Des Moines Union Ry. Co.,  
Des Moines, Iowa.

Dear Sir:—

Replying to yours of the 16th.

If \$50.00 per month is a fair rental for the rooms occupied  
by the D. M. N. & W. one-sixth of that, or \$8.33 per month,  
ought to be a fair rental for the one room occupied by the Wa-  
bash. However, I will have our General Superintendent look  
into this matter, and advise you as to his opinion.

Yours very truly,

J. RAMSEY, Jr.,

Vice-Pres't. and Gen'l Manager.

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**Defendants' Exhibit 443.****Chicago, Milwaukee & St. Paul Railway Co.****Office of the President.**

Roswell Miller, President.

Chicago, Feb. 18th, 1899.

F. M. Hubbell, Esq.,

Des Moines, Iowa.

Dear Sir:—

There is one share of Des Moines, Northern & Western stock standing in your name, one in the name of your son, and one in Mr. Thompson's name. The two shares in the name of yourself and son it is necessary that you should hold as directors. That in the name of Mr. Thompson I do not think there is any necessity for him to hold. Will you please return it to me, and also hold yourself in readiness to return the two shares of stock held by yourself and son when required.

Yours truly,

(Signed) ROSWELL MILLER, President

**Defendants' Exhibit 444.**

Telegram.

Received at 222 Fourth St., Des Moines.

Feb. 19

76 C.H. KT. 110 53 1th.

St. Louis, Mo. 10th-99.

F. M. Hubbell,

Des Moines, Iowa.

If I send you written consent of Des Moines Union Railway Company and of Des Moines Northern and Western to Execution of mortgage by Wabash Company to Continental Trust Company of its stock in Des Moines Union and the terminal contracts along with Des Moines and St. Louis railroad will you sign such consent and return to me?

WILLIAM H. BLANGETT.

12.59 p. m.

**Defendants' Exhibit 445.****The Wabash Railroad Company.**

General Solicitor's Office.

Wells H. Blodgett, Gen'l. Solicitor.

St. Louis, March 11<sup>th</sup> 1889.F. M. Huddell Esq  
Des Moines Iowa

Dear Sir. I am much obliged for your dispatch of yesterday saying if I would send documents you would attend to getting formal consent of Des Moines Union Ry. Co. to our mortgage of contracts and stock, to Continental Trust Company.

I now send you papers as follows:

1st. The proxies of Mr. Ramsey and Mr. Magee to vote at meeting of Board Des Moines Union Ry. Co.

2nd. Resolution of Board of Des Moines Union Ry. Co. authorizing President to execute consent of Company to the assignment.

3rd. The written consent of Des Moines Union Ry. Co. to the assignment of the contracts and shares of stock.

The form of the mortgage is such as to make these papers necessary. After you have signed we will take the matter up with President of Des Moines Northern & Western Company at Chicago.

We are anxious to perfect these details as soon as practicable, and will greatly appreciate your early attention to the matter.

With kindest personal regards I remain,

Yours Very Truly,

(Signed) WELLS H. BLODGETT.

**Defendants' Exhibit 446.**

Whereas, on or about the 10th day of May, 1889, the Des Moines Union Railway Company, as party of the first part, entered into a contract with the Des Moines and St. Louis Railroad Company, the Des Moines and Northwestern Railway Company, and the St. Louis, Des Moines and Northern Railway Company, as parties of the second part, wherein and whereby said first party granted to said second parties the right to use, upon the terms and conditions therein set forth, the tracks, stations and terminal properties of said first

party in and near the city of Des Moines in the state of Iowa; and,

Whereas, the Des Moines and Northwestern Railway Company and the St. Louis, Des Moines and Northern Railway Company have ceased to own or operate the respective railroads that were owned and operated by them at the time said contract was made, and the Des Moines, Northern and Western Railroad Company has become the owner of and now operates the lines of railroad which were formerly owned and operated by the said Des Moines and Northwestern Railway Company and the St. Louis, Des Moines and Northern Railway Company; and

Whereas, on or about the 31st day of July, 1897, said contract was by an agreement of that date, ratified, confirmed and adopted as a contract between the said Des Moines Union Railway Company, the Wabash Railroad Company and the Des Moines, Northern and Western Railroad Company; and,

948   Whereas, in a certain mortgage made by the Wabash Railroad Company to the Continental Trust Company of the City of New York, dated on or about the first day of January, 1899, the Wabash Railroad Company, to secure the bonds in said mortgage described, has granted and conveyed to said Trust Company the Des Moines and St. Louis Railroad, extending from the city of Des Moines to Albia, in the state of Iowa, and all its leasehold rights and privileges to the use and enjoyment of the tracks, stations and terminal properties of the Des Moines Union Railway Company, in or near said city of Des Moines, including also the rights and interests of the Wabash Railroad Company in and to said terminal contract, dated the 31st day of July, 1897, and in and to said other contract, dated the 10th day of May, 1889; and,

Whereas, it is provided in said mortgage that both said contracts shall be deposited with and assigned to the Continental Trust Company of the City of New York by the Wabash Railroad Company, and that such assignment of said contracts shall be made with consent of said Des Moines Union Railway Company, and with the consent of said Des Moines, Northern and Western Railroad Company, as the assignee or successor of the Des Moines and Northwestern Railway Company and of the St. Louis, Des Moines and Northern Railway Company; and

Whereas, the Wabash Railroad Company has also in its said mortgage, granted and conveyed to said Continental Trust Company of the city of New York, five hundred shares of the

capital stock of said Des Moines Union Railway Company of the par value of one hundred dollars each; and,

949 Whereas, it is provided in said mortgage that the Wabash Railroad Company shall deposit with, or cause to be delivered to and deposited with said Continental Trust Company of the city of New York, duly endorsed in blank, said five hundred shares of the capital stock of said Des Moines Union Railway Company, and shall also file with said Trust Company the consent of the Des Moines Union Railway Company and the consent of the Des Moines, Northern and Western Railroad Company to said assignment or mortgage to said Continental Trust Company of said five hundred shares of the capital stock of the Des Moines Union Railway Company;

Now Therefore, in consideration of the premises, the Des Moines Union Railway Company and the Des Moines Northern and Western Railroad Company, and each of them, do hereby consent to any assignment that has been made or that may be hereafter made by the Wabash Railroad Company of said two contracts, and of its rights under the same, to the Continental Trust Company of the city of New York, as provided for in said mortgage, and said Des Moines Union Railway Company, and said Des Moines, Northern and Western Railroad Company have consented and do hereby consent to all assignments or conveyances that have been made, or that may be hereafter made by the Wabash Purchasing Committee to the Wabash Railroad Company, or that have been made or may be hereafter made by the Wabash Railroad Company to the Continental Trust Company of the City of New York, of  
 950 said five hundred shares of stock in accordance with the terms of said mortgage and in order to give effect to its provisions.

In Testimony Whereof, the Des Moines Union Railway Company and the Des Moines, Northern and Western Railroad Company have hereunto subscribed their corporate names by their respective Presidents, and caused these presents to be attested by their corporate seals this 14th day of March, A. D. 1899.

DES MOINES UNION RAILWAY  
COMPANY,

(Seal)

By H. D. Thompson,  
Vice President.

Attest:

F. M. Hubbell,  
Secretary.

THE DES MOINES NORTHERN  
AND WESTERN RAILROAD COM-  
PANY,

(Seal)

By A. J. Earling,  
President.

Attest:

P. M. Myers,  
Secretary.

951

### Defendants' Exhibit 447.

#### Assignment of Contracts.

Wabash Railroad Company to Continental Trust Company  
of the City of New York.

Whereas, The Wabash Railroad Company has in its certain mortgage made on or about the 1st day of January, 1899, to secure the payment of the principal and interest of a series of bonds amounting in all to One Million Eight Hundred Thousand Dollars (\$1,800,000), known as its "First Mortgage Gold Bonds, Des Moines Division," conveyed to the Continental Trust Company of the City of New York, Trustee, all its leasehold rights and privileges to the use and enjoyment of the tracks, stations and terminal properties of the Des Moines Union Railway Company in and near the city of Des Moines, including also its rights and interests in and to a certain terminal contract dated July 31, 1897, and made by and between the Des Moines Union Railway Company, The Wabash Railroad Company and the Des Moines, Northern & Western Railroad Company, and also in and to another contract dated the 10th day of May, 1889, and made by and between the Des Moines Union Railway Company, the Des Moines & St. Louis Railway Company, the Des Moines & Northwestern Railway Company and the St. Louis, Des Moines & Northern Railway Company; and

Whereas, It is provided in said mortgage that said Wabash Railroad Company shall deposit with said Continental Trust Company the above mentioned terminal contract dated the  
31st day of July, 1897, between the Des Moines Union  
Railway Company, The Wabash Railroad Company, and  
the Des Moines, Northern & Western Railroad Company,  
and also the above mentioned contract dated the 10th day of  
May 1889, between the Des Moines Union Railway Company,

the Des Moines & St. Louis Railway Company, the Des Moines & Northwestern Railway Company and the St. Louis, Des Moines & Northern Railway Company, and that said Wabash Railroad Company will assign and transfer to said Continental Trust Company all its rights and interests in and to said contracts.

Now, Therefore, In consideration of the premises and of the sum of One Dollar to The Wabash Railroad Company paid by the Continental Trust Company of the City of New York, the receipt whereof is hereby acknowledged, The Wabash Railroad Company has assigned and set over, and by these presents it does assign and set over unto said Continental Trust Company, Trustee, and its successors and assigns forever, all its rights and interests in and to the two contracts aforesaid, to be held by said Trust Company in all respects upon the terms and conditions of said trust as created and defined in the mortgage aforesaid, and in further compliance with the terms of said mortgage The Wabash Railroad Company hereto attaches the original contract aforesaid, dated May 10, 1889, and delivers the same herewith to the Continental Trust Company of the city of New York, Trustee, and also attaches a certified copy of the aforesaid contract dated July 31, 1897, the original thereof having been lost or destroyed.

953 In Testimony Whereof, The Wabash Railroad Company has caused these presents to be signed by its President and attested by its Secretary, and has caused the corporate seal of said Company to be hereunto affixed this 17th day of March, A. D. 1899.

(Seal)

O. D. ASHLEY, President.

J. C. Otteson, Secretary.

City of New York,

County of New York,

State of New York—ss.

On the 18th day of March, 1899 before me a Notary Public for the city and county of New York, resident in said City and County of New York, appeared Ossian D. Ashley, to me personally known, who, being by me duly sworn, did say: That he is the President of The Wabash Railroad Company above named, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by the authority of its Board of Directors; and said Ossian D. Ashley acknowledged the said instrument to be the voluntary act and deed of said corporation.

In Witness Whereof, I have hereunto set my hand and affixed my official seal this 20th day of March, 1899.

(Seal)

CLARENCE D. ASHLEY,

Notary Public for the city and county of New York in the state of New York, resident in said city and county and state of New York.

954

**Defendants' Exhibit 448.**

**The Wabash Railroad Company.**

General Solicitor's Office.

Wells H. Blodgett, Gen'l. Solicitor.

St. Louis. Mar. 20, 1899

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:—

I wrote you Saturday that I had prepared and sent to Mr. Ashley a quit-claim deed from the Wabash Railroad Company to Des Moines Union Railway Company, for the tract of land in Des Moines acquired from Hoyt Sherman. I now write to say there is not the least danger that our new mortgage will cast a cloud on your title to that tract. The mortgage only conveys to the Trust Company the Des Moines & St. Louis Railroad 'as the same now is or may be hereafter constructed or operated in the State of Iowa, commencing at a point in or near the City of Des Moines, where said road connects with the tracks of the Des Moines Union Railway Company, and extending from thence in a southerly direction through the counties of Polk, Marion and Monroe to the town or city of Albia in said county of Monroe, a distance of about 67 miles . . . . . and also all the leasehold rights and privileges of the Wabash Company to the use and enjoyment of the tracks, stations and terminal properties of the Des Moines Union Railway Company in or near said City of Des Moines, including also the rights and interests of the Wabash Company in and to a certain terminal contract, dated the 31st day of July, 1897, and made by and between the Des Moines Union Railway Company, the Wabash Railroad Company and the Des Moines, Northern & Western Railroad Company, and in and to another contract dated the 10th day of May, 1889, and made by and between the Des Moines Union Railway Company, the Des Moines and St. Louis Railway Company, the Des Moines and Northwestern Railway Company and the St. Louis, Des Moines and Northern Railway Company'."

I think it might be well, however, for you to hold the quit-claim deed from Mrs. How and her sons until Mr. Ashley has executed and returned the quit-claim deed from the Wabash Company to the Des Moines Union Railway Company, and if, in the meantime, the new Wabash mortgage is placed on record, and you and Mr. Cummins think it would be better not to record the deed I sent you from Mrs. How and her sons to the Wabash, and afterwards record the quit-claim deed from the Wabash to your company, I will then take the matter up with Mrs. How and her sons, and endeavor to have them execute the new deed directly to your company, without passing the title through the Wabash Company. It is rather a delicate matter, however, and I would rather not ask them to execute a new conveyance without it seems really necessary to do so. It will not be any trouble to secure a new conveyance from Mrs. How and one of the sons, but the other son has very queer notions about such things. He refuses to accept any portion of his father's estate, and it is quit difficult to get him to sign any paper which seems to imply that he has any interest, by inheritance or otherwise, in anything that belonged to his father. This latter information I give to you  
 956 privately, so that you may know my reasons for preferring to work the matter out without obtaining from him any further conveyance.

Very truly yours,

(Signed) WELLS H. BLODGETT.

957

**Defendants' Exhibit 449.**

**The Wabash Railroad Company.**

General Solicitor's Office.

Wells H. Blodgett, Gen'l Solicitor.

St. Louis, March 23, 1899.

F. M. Hubbell Esq

Des Moines Iowa

Dear Sir. I am in receipt of yours of yesterday, concerning quit claim deed from Wabash Railroad Co. to Des Moines Union Ry. Co., for tract of land in Des Moines conveyed by Hoyt Sherman to James F. How, trustee.

I herewith inclose same, and request that you put same on record at once. I do not, as I have already written, think the new Wabash mortgage would cloud the title of the Terminal Company, but to save all question on that point I have asked Mr. Cummins to hold the mortgage until your quit claim is re-

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THE C., M. &amp; ST. P. RY. CO. ET AL. VS.

corded. As soon as that is done, please inform Mr. Cummins  
and oblige

Yours Very Truly,

(Signed) WELLS H. BLODGETT.

958

**Defendants' Exhibit 450.**

Telegram.

Received at 222 Fourth St., Des Moines.

McH 23-1899

134. CH. Q1. RO. 8-Dh.

St Louis Mo. 23rd-99.

F. M. Hubbell,

Des Moines, Iowa.

Deed from Wabash Company mailed to you today.

W. H. BLODGETT.

232p

959

**Defendants' Exhibit 451.**

Telegram.

Received at 222 Fourth St., Des Moines.

85 CH. Q1 RO 52 Dh.

McH 25

St. Louis, Mo. 25th-99.

F. M. Hubbell,

Des Moines, Ia.

Mr. Eearling does not seem inclined to execute consent. Says he does not understand contracts, and that he has written you. Will you wire him your views at our expense? The sale of the whole issue of bonds is depending on this one thing, as title will not be passed without it.

W. H. BLODGETT.

12:58pm.

960

**Defendants' Exhibit 452.**

Des Moines, Northern & Western Railroad Company.

Secretary's Office.

Milwaukee, April 22nd, 1899.

Mr. F. C. Hubbell,

Des Moines, Iowa.

Dear Sir:

By order of the President a special meeting of the Board of Directors of this Company is called to be held at his of-

1759  
fice, (Old Colony Bldg., Chicago), at 2:30 o'clock P. M. of Monday, the 24th inst., for the purpose of considering the proposal of the Chicago, Milwaukee & St. Paul Ry. Co. to buy the railroad and property of this Company, and if such proposal be accepted, then to consider and approve a form of deed to be executed by this Company, conveying its railroad and property to said Chicago, Milwaukee & St. Paul Ry. Co., and also for the purpose of calling a meeting of this Company to consider and approve said deed and authorize its execution and delivery. At the same meeting the Directors will be called upon to approve the "Consent" which was a few days since given to the Wabash Company to mortgage its interest in the Des Moines Union Railway Company. While we should be very happy to see you, it will not be necessary for you to be present unless it is entirely convenient.

Yours truly,

(Signed) P. M. MYERS,  
Secretary.

961

**Defendants' Exhibit 453.**

**Des Moines, Northern & Western Railroad Company.**

Secretary's Office.

Milwaukee, April 22nd, 1899.

Mr. F. M. Hubbell,  
Des Moines, Iowa.

Dear Sir:

By order of the President a special meeting of the Board of Directors of this Company is called to be held at his office, (Old Colony Bldg., Chicago), at 2:30 o'clock P. M. of Monday, the 24th inst., for the purpose of considering the proposal of the Chicago, Milwaukee & St. Paul Ry. Co. to buy the railroad and property of this Company, and if such proposal be accepted, then to consider and approve a form of deed to be executed by this Company, conveying its railroad and property to said Chicago, Milwaukee & St. Paul Ry. Co., and also for the purpose of calling a meeting of this Company to consider and approve said deed and authorize its execution and delivery. At the same meeting the Directors will be called upon to approve the "Consent" which was a few days since given to the Wabash Company to mortgage its interest in the Des Moines Union Railway Company. While we should

be very happy to see you, it will not be necessary for you to be present unless it is entirely convenient.

Yours truly,

(Signed) P. M. MYERS,  
Secretary.

962

### Defendants' Exhibit 454.

September 25, 1899

Mr. Ramsey, Jr., V. P. & Genl. Manager,  
Wabash Railroad Company,  
St. Louis, Mo.

Dear Sir:—

Mr. F. M. Hubbell was in Chicago last Thursday and had an interview with Messrs. Roswell Miller and A. J. Earling, at which time those two gentlemen stated that they would be unwilling to consent to the approval of the lease now pending between the Des Moines Union Railway Company, and the C. B. & Q. and Keokuk & Western R. R. companies, unless the Des Moines Union Company would give to the C. M. & St. P. Ry. Company a lease for 50 years. They fear that at the end of the present lease, May 1st 1918, the Directors who are then managing the Company will not deal fairly with them in making a lease for the further use of the premises, hence take the position above stated, that they will approve no other leases until they get one approved for themselves. Do you approve of the position they take in the matter, or are you and Mr. Magee willing to approve the lease as now prepared? An early answer will greatly oblige.

Messrs. Miller and Earling must think a new lease to their Company would be of very great value, if they are willing to forego for a period of 18 years, their portion of the rents which undoubtedly would be received from the Keokuk & Western, C. B. & Q., C. & N. W., and C. R. I. & P. Ry companies.

Assuming that the Burlington and its proprietary Road  
963 would pay on an average of.....\$6,500 per annum  
The C. & N. W. Ry. Co.,..... 9,000 " "  
The C. R. I. & P. Ry. Co. say,.....15,000 " "

Total,.....\$30,500 per annum

the C. M. & St. P. Ry. Company's share of these rents, would be, on the present wheelage, about 75% or \$22,875, thus it seems that the C. M. & St. P. Ry. Company is willing to lose \$22,875 annually rather than not get an extension of its pre-

ent lease for a period of 32 years beyond the time when the present lease expires.

Yours truly,

(Signed) F. C. HUBBELL, President.

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**Defendants' Exhibit 455.**

**The Wabash Railroad Company.**

Office.

J. Ramsey, Jr., Vice-Prest. & Genl. Manager.

St. Louis, Mo. September 27th, 1899.

Mr. F. C. Hubbell,

President, The Des Moines Union Railway Company,  
Des Moines, Iowa.

Dear Sir:—

I have yours of the 25th relative to the position taken by Messrs. Miller and Earling of the St. Paul regarding the extension of their lease of the Des Moines Union property.

I have not given this subject sufficient attention to make a definite and decided reply to your question. There is much that might be said in favor of the extension of the lease to the Wabash and the C. M. & St. P. for a period of fifty years and it seems to me that the Des Moines Union Company would be glad to have the lease extended. While I would favor the extension of both of these leases, I am not prepared to take the position held by Mr. Earling, namely, that no other lease should be executed unless our leases are extended. The execution of leases to other companies may be of sufficient importance to the Wabash and the St. Paul to justify their approval of such lease even if their own leases are not extended, and yet, as the St. Paul and the Wabash Companies are now, and will be for the next nineteen years, in the position of guaranteeing to the Des Moines Union Company the rentals  
965 and expenses of the entire property regardless of whether new lines should continue to use the property or not, it seems to me that the Des Moines Union Company, in recognition of the position of our respective companies, should be perfectly willing to extend the leases of both companies for the period suggested by Mr. Earling.

Yours very truly,

J. RAMSEY, Jr.,

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**Defendants' Exhibit 456.**

These figures made by Mr. Earling Oct. 17, 1896.

Interest to be paid as follows:

C. G. W. ....	\$12,500.00
C. M. & St. P. ....	13,000.00
Wabash ....	5,000.00
C. R. & Q. ....	3,000.00
North-Western ....	4,000.00
	<hr/>
	37,500.00

Bonded debt, including floating debt.

\$750,000.00

Interest \$37,500.00

Balance of amount paid by C. R. & Q. and C. & N.W. to be applied to dividend. This for first ten years.

Next 13 years, apply \$6,000 more to dividend from surplus earnings.

Mr. Earling would not say what he wanted for the last 25 yrs. but would talk it over with Mr. Myers on one of their trips.

**Defendants' Exhibit 457.**

We presented this to Mr. Earling Oct. 17, 1899.

Memoranda for new Contract.

1st. New contract to take effect at once, eliminating the right to lessee to prevent leases to other roads.

2nd. The rental to be based on the cost of the property at this time, of \$800,000 with all additions for the next 15 years, at the end of which period the capital stock is to receive a dividend of 5%.

3rd. The guaranty clause to be eliminated and one to be substituted which shall make each company rightfully occupying the terminals, alone liable for its share of rental.

4th. The arrangement provided for in No. 2 to continue 25 years after which time rental is to be fair, just and reasonable, but upon a basis not less than the preceding 10 years.

5th. Details to be agreed upon hereafter.

6th. The Articles of Incorporation to be amended so as to allow a majority to control the corporation.

- 7th. Surplus earnings to be used during the first term to add to and improve the property.

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**Defendants' Exhibit 458.**

928

**Chicago, Milwaukee & St. Paul R'y Company.**

Office of Second Vice-President,  
Chicago, Ill.

Memo by Mr. Earling, Oct. 17, 1899.

1st. 10 years St. P. & Wab. guarantee 5 pr. ct. on cost of property not including stock.

All rentals from roads now or hereafter using D. M. W. Ry. to be applied as credits.

The next 15 years St. P. & Wab. guarantee 5 pr. ct. on cost of property including capital stock.

All rentals from roads and individuals & revenue derived from switching & otherwise to be applied as credits.

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**Defendants' Exhibit 459.**

929

**Memoranda.**

Offer 1 made to Mr. Earling in Chicago, Octo. 17, 1899.

For the first period of 10 years the Saint Paul and Wabash to pay as rent 5% on the cost of the property, not including the capital stock, and are to have credit for all rents paid by the Burlington, North Western, Great Western, and Rock Island companies.

For the second period of 15 years the Saint Paul and Wabash to pay as rent 5% on the cost of the property, including the capital stock, and are to have credit for all rents paid by the Burlington, North Western, Great Western, and Rock Island companies.

For the third period of 25 years the Saint Paul and Wabash to pay as rent 5% on the cost of the property, including the capital stock, and are to have credit for one-half of the rent paid by the Burlington, North Western, Great Western, and Rock Island companies.

Surplus earnings to be used during the whole time to pay on floating debt, to acquire more property, build more track, for working fund, and other legitimate purposes.

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**Defendants' Exhibit 460.****Chicago, Milwaukee & St. Paul Railway Co.**

Office of the President.

Chicago, December 18th, 1899.

Mr. F. C. Hubbell,

President D. M. U. Ry.,

Des Moines, Iowa.

Dear Sir,

Your letter of the 16th is at hand. I am prepared to assent to the closing of the proposed contract with the C. R. & Q. whenever the D. M. U. Ry. Co. is prepared to extend its contract with the St. Paul Company for the use of its terminals on a fair basis. The small amount which the C. R. & Q. is to pay for the use of the D. M. U. Co's facilities is no inducement to us unless we can get a long time contract.

Yours truly,

A. J. EARLING,

President

**Defendants' Exhibit 461.**

Chicago, Dec. 18, 1899.

Mr. F. C. Hubbell,

Pres't., D. M. U. Ry.,

Des Moines, Iowa.

Dear Sir:—

Your letter of the 16th is at hand. I am prepared to assent to the closing of the proposed contract with the C. R. & Q. whenever the Des Moines Union Railway Company is prepared to extend its contract with the St. Paul Company for the use of its terminals on a fair basis. The small amount which the C. R. & Q. is to pay for the use of the D. M. U. Co's facilities is no inducement to us unless we can get a long time contract.

Yours truly,

(Signed) A. J. EARLING,

Pres't.

C-O-P-Y.

**Defendants' Exhibit 462.**

Jany. 4, 1900.

Mr. J. Ramsey, Jr.,

V. P. &amp; G. M. Wabash R. R.,

St. Louis, Mo.

Dear Sir:—

At the annual meeting of the D. M. Union to-day Mr. Earling brought up the subject of a track from the eastern ter-

minus of the D. M. Union to connect with the Christy and Carbondale coal mines. The C. M. & St. P. Road is short of coal for engine purposes and are desirous of increasing their supply from the Des Moines fields. The amount of track to be built is approximately three miles. The engineering difficulties are very slight. The principal expenses will be rails, ties, and the cost of the right of way. We estimate roughly the right of way at \$6,000 and the cost of the track at \$16,000 making a total of \$22,000. The C. M. & St. P. people tell us that they can take from Des Moines for engine purposes thirty cars per day every day in the year. This will very materially increase the wheelage of that road, and will be a very desirable thing both for the D. M. Union and also for your road because the larger the wheelage of the C. M. & St. P. road the less of the expense of the terminals will fall on the Wabash. If you favor this, will you kindly give me your prompt authority for us to go ahead with the work of securing the right of way. We would like to take the winter months for securing the right of way in hopes that we can get it for considerably less than our estimate and then be able to commence the work of building the road the first thing in the summer.

Yours truly,

F. C. HUBBELL,  
Pres't.

524

#### Defendants' Exhibit 463.

Jan'y. 25, 1900.

Mr. J. Ramsey, Jr.,  
V. P. & C. M. Wabash R. R.,  
St. Louis, Mo.

Dear Sir:—

Further replying to yours of the 6th would advise in our proposed extension to the Carbondale mine, we contemplate leaving our main line at its present eastern terminus and taking a direct easterly course to the mines. This will not require us to use any of the Wabash track. Since writing my letter of the 4th we have been looking up the question of right of way and find that it will not be as expensive as stated in my letter of the 4th. I now think that \$4,000 ought to cover the cost of the right of way. Would thank you to give me an early reply respecting the proposed new track.

Yours truly,

F. C. HUBBELL,  
Pres't.

**Defendants' Exhibit 464.**

Jany. 25, 1900.

Mr. A. J. Earling,  
 Prest. C. M. & St. P. Ry.,  
 Chicago, Ill.

Dear Sir:—

We are making some progress in getting the right-of-way for the proposed track to the Carbondale mine and believe that the right of way will not be a very serious item. We have had no definite reply from Mr. Ramsey respecting this track, and I hope you will call it to his attention at an early day. If we are to get the right of way at the right price, we should gather it in as opportunity presents.

Yours truly,

F. C. HUBBELL,  
 Prest.

**Defendants' Exhibit 465.**

Jany. 27, 1900.

Mr. J. Ramsey, Jr.,  
 V. P. & G. M. Wabash R. R.,  
 St. Louis, Mo.

Dear Sir:—

My first letter to you on the subject of the Carbondale extension stated the estimated cost of the same, which estimate was made by Mr. Earling and the balance of the directors who were in attendance at the annual meeting. I wrote you in my letter of the 25th that the cost of the right of way would probably be less than the estimate, as we have already opened negotiations for some of the right of way and think we can acquire it at private sale before it is known that it is wanted for railroad purposes. We had this line surveyed some two or three years ago and it is not necessary for us at this time to resurvey it. It is desirable to pick up the right of way quietly.

If the extension is made it naturally would be a part of the D. M. Union and business originating upon it would be handled by the D. M. Union the same as other business and would result in increasing the total wheelage of the terminal, company very materially. This, I think, I explained to you. This increase in the C. M. & St. P. wheelage would result in that Company paying a proportionately larger wheelage and inas-  
 977 much as wheelage in our company covers every item of  
 expense, you can readily see that while the investment  
 of the D. M. Union will be in the neighborhood of \$20,000  
 the C. M. & St. P. Company will be paying their proportion

of interest and all other expenses and charges upon the whole terminal by reason of using this extension. We, as directors and owners of the terminal company feel that it is a good thing for the company and strongly recommend the proposed extension.

In my opinion there should be no charge made for the haul from the mines to the city because the cost of handling this coal would be very much less per car than any other class of business which the terminal company handles for its tenants, while the C. M. & St. P. road would pay the same wheelage upon this coal traffic that it pays on other business which costs the terminal company more to handle.

Yours truly,

F. C. HUBBELL,  
Pres.

978

#### **Defendants' Exhibit 466.**

St. Louis, Jan'y 29, 1900.

F. C. Hubbell:

As I am advised by Mr. Earling that he will not attend the meeting to-morrow and that his representative will oppose the execution of the contracts referred to, it will not be worth my while to go up. While I would like to see the other roads in the terminals, I will vote on this question as the St. Paul. Therefore nothing definite would result from the meeting.

(Signed) J. RAMSEY, JR.

(Copy)

979

#### **Defendants' Exhibit 467.**

Jany. 29, 1900.

J. Ramsey, Jr.,

St. Louis, Missouri,

The proposed contract is strictly in accordance with your views as expressed to us and your sanction was had before contract was agreed upon. We now ask that you vote in accordance with your previous authority and not place the Des Moines Directors in an embarrassing position. We believe the Chicago Directors will not oppose the contract as they will not like to be placed in an unfavorable light before the Des Moines Public by offering unreasonable objections to the occupancy of the Union Depot by all the railway companies which Des

Moines so much desires. I trust you will come or send a proxy to ratify the contract.

F. C. HUBBELL.

(Copy)

980

**Defendants' Exhibit 468.**

St. Louis, Jan'y 29, 1900.

F. C. Hubbell:

I am in favor of getting all the lines at Des Moines into the Union Station, but I think Mr. Earling's position is a proper one, namely, that no new line should have any better contract than is held by the present Companies who are really the guarantors of the whole Des Moines terminal expenses and fixed charges. The Wabash has now only one vote in the board and could not prevent the ratification of the contract if the St. Paul directors should be in favor of it. It is therefore not necessary for me to attend the meeting.

(Signed) J. RAMSEY, Jr.

981

**Defendants' Exhibit 469.**

Jany. 30, 1900.

Mr. J. Ramsey, Jr.,

V. P. & G. M. Wabash R. R.

St. Louis, Mo.

Dear Sir:—

Replying to yours of the 29th respecting the proposed extension to Carbondale, will say at the meeting of the directors to-day the subject was more fully discussed and now the proposition is in this shape. The C. M. & St. P. people will furnish the rail and ties and Hubbell, Son & Co. will furnish the money to buy the right of way, grade the road and the necessary labor and material to complete it. The D. M. Union will make a charge of \$1.50 per loaded car for each loaded car handled over the proposed extension until the \$1.50 car will reimburse the C. M. & St. P. road and Hubbell, Son & Co. for the amount of their advances, together with interest on the same; after which the charge of \$1.50 per car shall cease and traffic shall be handled over this track thereafter in the same manner as over any other part of the terminal property. Under this arrangement the D. M. Union will become the owner of over two miles of very productive and valuable railroad without it costing the D. M. Union a penny. This is certainly getting something for nothing. It is Mr. Earling's idea to build the track with new heavy rail and first class ties and therefore the track will not be expensive to maintain for many

982 years. Under this arrangement there will be nothing added to your burdens for interest charge and the cost, as I have previously explained, of handling this coal traffic will be less per car than the other wheelage handled by the D. M. Union. Therefore, you will see, no hardship is placed on the Wabash Co. nor upon the D. M. Union Company. If with this understanding you will consent to the arrangement, I will have a proper form of resolution prepared in accordance with this letter and send it to you for your approval.

Yours truly,

F. C. HUBBELL, Prest.

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**Defendants' Exhibit 470.**

**The Wabash Railroad Company.**

Office.

J. Ramsey, Jr., Vice Pres't. and Gen'l Manager.

St. Louis, Mo. January 31st, 1900.

Mr. F. C. Hubbell,

President, The Des Moines Union Ry. Co.,  
Des Moines, Iowa.

Dear Sir:—

I have yours of the 30th.

The proposition of the St. Paul Road and of Hubbell, Son & Co. to furnish the right of way, rails, cross ties, etc., the cost of which is to be refunded to these parties from revenues received from the operation of the extension, does not change the question an iota. It practically amounts to borrowing the money from these two parties, instead of issuing bonds or getting it in some other way. The result will be same, namely: that this extension which will be of no value whatever to the Wabash Company will afterwards be operated partly at the expense of the Wabash Railroad, as all of the expense of the operation of that branch will be divided on the same basis as the cost of operating the present terminal, and that is, on the wheelage basis, and the Wabash will pay its full proportion of the branch expenses on every car it handles in and out of Des Moines, without getting one carload of traffic out of the extension.

984 The interest charge on the cost of this extension, the cost of operating it with a reasonable profit to the Des Moines Union Ry. should be borne by the traffic handled on the branch and a proper charge either per car or per

ton for business to and from the St. Paul Road or any other connection, should be made, as well as on all local coal traffic to and from the City of Des Moines. I will oppose its construction and operation on any other basis, as far as I can.

Yours very truly,

(Signed) J. RAMSEY, Jr.

985

### **Defendants' Exhibit 471.**

After the expiration of the present contract the St. Paul Company agrees that one-fourth of the amount paid for rentals by other companies than those now occupying the Des Moines Union shall be taken by the Des Moines Union for the purpose of paying dividends, provided that these dividends shall not exceed 5 per cent., and that any surplus earnings which shall accrue over and above the rental paid by the St. Paul and Wabash shall also go to the payment of dividends; that there shall be no limit to the dividends paid by these surplus earnings. Surplus earnings to mean rentals of offices, rentals of real estate and switching charges, less the actual cost of switching, and less taxes levied upon the property rented, because it is not used for railroad purposes.

Handed to me by Mr. Miller Jany. 31, 1900.

986

### **Defendants' Exhibit 472.**

**Chicago, Milwaukee & St. Paul Railway Co.**

Office of the President.

Chicago, February 12th, 1900.

Mr. F. C. Hubbell,  
President D. M. U. Ry.,  
Des Moines, Iowa.

Dear Sir,

Concerning the right of way for a track to the Carbon-dale mines. I have written Mr. Ramsey to learn on what basis he is willing that the Des Moines Union shall purchase the right of way and construct the proposed track. I prefer that nothing shall be done until I can hear from him and obtain his assent.

Truly yours,

(Signed) A. J. EARLING,  
President.

## Defendants' Exhibit 473.

967

Feby. 17, 1900.

Mr. J. Ramsey, Jr.,  
V. P. & G. M. Wabash R. R.,  
St. Louis, Mo.

Dear Sir:—

Replying to yours of the 16th would advise that the D. M. X. & W. in the past and the C. M. & St. P. Ry. in the present pay to the D. M. Union Ry. Co. \$1.50 per car for every car going to the Carbondale mines. This \$1.50 is the amount which the D. M. Union Ry. pays to the Wabash Company under the trackage contract existing between the Wabash and the D. M. Union. I enclose herewith a rough sketch, which is not even drawn to a scale, but which will, I think, explain the trackage question relating to the Carbondale. I have marked upon the plat with an "X" the east end of the D. M. Union Ry. where it connects with the Wabash, and have also marked with an "X" the point known as "Ross Junction", it being about two miles between the two points named and it is for the trackage over these two miles that the Wabash receives \$1.50 per car. The Carbondale Coal Co. built all of the track from Ross Junction to their mine and maintain the same. With this situation made plain to you, I will endeavor to answer the balance of your questions.

988 Answer to question. 1. The D. M. Union made no extension and therefore paid no money on account of it.

#2. The total number of cars handled from the Carbondale mines since our arrangement was made is 15,187. Of this number the D. M. Union has taken on an average about two or three cars per day for engine coal, which engine coal is used not only for their own use, but for the Wabash and C. M. & St. P. engines, which are coaled at Des Moines. A very small number of cars, possibly five a month, are brought to Des Moines on the basis of twenty cents per ton and the balance go out over the C. M. & St. P. road for Sioux City and other Missouri River points. It would be quite a task and take several days to give you the exact number of cars handled in each way.

I cannot quite understand your third question. Do you wish to know the revenue of the C. M. & St. P. on coal which has been billed out over that line from the Carbondale? If so, I do not know whether it would be proper for me to furnish it. As to, the revenue received by the D. M. Union for such coal, as has come to Des Moines locally, I can have this information figured up for you and will send it to you in two or three days, as quickly as we can make it up. As

to the passenger traffic, it amounts to only ten or fifteen dollars, being a charge which we have made on two or three occasions for switching a carload of miners out to the mines.

As to the fourth question will say there is no possible expense to the D. M. Union for the maintenance, operation and taxes on the so-called Carbondale branch.

As to the fifth question, there was no resolution of the Board necessary.

Yours truly,

F. C. HUBBELL,  
Pres.

990

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**Defendants' Exhibit 474.**

Feby. 19, 1900.

Mr. J. Ramsey, Jr.,  
V. P. Wabash R. R.,  
St. Louis, Mo.

Dear Sir:—

The following is a statement of the revenues received by the D. M. Union for handling coal between Carbondale mines and Des Moines:

Year 1895.....	\$ 190.90
" 1896.....	2722.66
" 1897.....	970.43
" 1898.....	860.60
" 1899.....	704.83

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\$5449.42

Yours truly,

F. C. HUBBELL,  
Pres.

991

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**Defendants' Exhibit 475.**

Feby. 22, 1900.

Mr. J. Ramsey, Jr.,  
V. P. Wabash R. R.,  
St. Louis, Mo.

Dear Sir:—

Replying to yours of the 20th respecting the Carbondale coal traffic would advise the statement furnished you of revenue of the D. M. Union is for coal handled between the Carbondale mines and Des Moines for consumption in Des Moines, or in your own words "it is local coal".

You are correct in your understanding that no extra charge is made against the D. M. N. & W. beyond the toll per car for use of the Wabash track.

Replying to your next question, the Carbondale track was built by the Carbondale people. They pay the taxes and all maintenance. We simply use it in handling the coal traffic. The Carbondale does not pay to the D. M. Union anything on account of the D. M. Union handling the Carbondale coal.

Answering the next paragraph of your letter will say your understanding is correct of the manner in which the wheelage of the old D. M. N. & W. (now the C. M. & St. P. Ry.) has been counted in handling the Carbondale coal traffic. Answering the last part of this paragraph will say if a Wabash car comes into Des Moines and is switched to the C. R. I. & P. to go to some industry or unloading tracks, the D. M. Union does not count this movement in your wheelage account. Soon after you assumed the management of the Wabash road, the subject of the Carbondale business was quite thoroughly gone into and it was our understanding that the manner of handling it was entirely satisfactory and I personally feel that the way it is now being handled is a fair method. I base my opinion, as explained to you, upon the ground that the cost of handling the Carbondale coal traffic is much less per car than handling the miscellaneous business of the D. M. Union and further more the wheelage charge which the C. M. & St. P. Ry. now pays added to the \$1.50 per car which goes to your Company, is all that the traffic will bear and any further charge upon this business would simply result in diverting all of it to the C. R. I. & P. who also have access to the Carbondale mines.

It is the desire of the D. M. Union to be fair between its tenants and any modification in the method of counting the Carbondale wheelage, which the C. M. & St. P. Ry., will accept will be entirely satisfactory to us.

Yours truly,

F. C. HUBBELL,  
Presd.

**Defendants' Exhibit 476.****The Wabash Railroad Company.**

Office,

J. Ramsey, Jr., Vice-Prest.

&amp; Genl. Manager.

St. Louis, Mo., April 4th, 1900.

Mr. F. C. Hubbell,

President The Des Moines Union Railway Co.,  
Des Moines, Iowa.

Dear Sir:—

I have yours of March 31st.

As I understand your letter and plan attached, the warehouse of the Luthe Hardware Company is to be located on property belonging to F. M. Hubbell & Sons, and that the twelve foot strip which is to be used for the side track to said warehouse is to be located on the east side of the warehouse building and on the land of F. M. Hubbell & Sons.

If this understanding of mine is correct, why should not Hubbell & Sons furnish the right of way for this track for a nominal rental,—say \$1.00 per annum—to the Des Moines Union Railway Company. These are the conditions which we would naturally expect to be complied with by any other party wishing a private siding on their own land to a warehouse. \$816.00 for a 12 foot frontage is pretty nearly \$70.00 per front foot.

Yours very truly,

J. RAMSEY, JR.

**Defendants' Exhibit 477.**

May 26, 1900.

Mr. J. Ramsey, Jr.,

V. P. &amp; G. M. Wabash R. R.,

St. Louis, Mo.

Dear Sir:—

Replying to your message in reference to the track of the Luthe building, will say we recognize that fifteen feet would be a better right of way than twelve feet, but cars and engines can be operated on twelve feet of ground and as land is valuable at this point, we thought it best not to leave out any more ground than possible. In other parts of our yard we have put tracks in on twelve foot centers. The track in question will not be a private siding but will be used not only by Luthe Bros, but also by the Des Moines Bale Tie Co. and by Pease Bros. This track can be extended farther

north and in fact the people north of us are asking us if we cannot so arrange.

The lot on which this track is to go was bought by Hubbell, Son & Co. and we are only asking the D. M. Union to reimburse us for this actual cost, and the price is much below the real value of the lot. We believe that this track will be one of the best of the D. M. Union's business tracks. I fully recognize the justice of your position that tracks should be put in on right of way furnished free as a general rule, and no doubt you are aware that we have given to the D. M. Union a considerable amount of right of way without any expense to the Union, some of this right of way being worth at the time we gave it, a very large sum of money. The fact that we stand ready to furnish the Union right of way free in our manufacturers' addition and are willing to build buildings for factories and wholesale business or furnish them substantial assistance to build their own buildings, is the main reason that the D. M. Union Railway is coming so fast into prominence at Des Moines. It has now been four or five years since any buildings have been built, requiring railway facilities, on any other road than the Des Moines Union. You will certainly recognize that it has taken a great deal of work on our part, besides a very liberal policy, to make this kind of a record.

Yours truly,

F. C. HUBBELL,  
Presd.

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**Defendants' Exhibit 478.**

Feby. 4, 1901.

Mr. J. Ramsey, Jr.,  
V. P. & G. M. Wabash R. R.,  
St. Louis, Missouri.

Dear Sir:—

Herewith I hand you a blue print showing the tracks of the Des Moines Union as they now exist between West Seventh street and West Eleventh street. Perhaps you are not aware of it, but we have had a very long and bitter litigation with the Getchell & Martin Manufacturing Company, who are the owners of Lots three and four in block 4, lots one, two, seven and eight in block nine, lots one and two and the east half of lots seven and eight in block fourteen. Some years ago we made a contract with these people to put a track in the east and west alley north of their property and afterwards adopted this track for our south main line. They sued us to compel us to remove the track entirely from the

alley, on which point they were beaten in the district court, but the court held that we could not use this south track for a main line but only for a side track. This case is now pending in the supreme court. The very best that we can hope from the supreme court is an affirmation of the decision of the lower court. Therefore in any event we are reduced to a single main line from our Passenger station to West Tenth street.

We are under contract with the Chicago Great Western to maintain a double main line at this point and in depriving them of this track we are in fact violating our contract with them. They have been more than usually patient with us in this case, which has now run a number of years, but the time will certainly come in the near future when they will insist on our furnishing a double main line. This can only be done by our making a compromise with Getchell and Martin. In my opinion a better trade can be made at the present moment than at any time since the litigation commenced.

We asked for authority from the Railroad Commissioners, and obtained it, to condemn a strip of ground fourteen feet wide off of the north side of the Getchell and Martin property, but have never dared to invoke the aid of a jury because we were afraid the damages would be assessed so very high as to give Getchell and Martin another club to use on us. For example;

On Lots three and four, block four, is the Getchell and Martin planing mill, and fourteen feet off of this property would damage it to the extent of .....\$10,000.00

We estimate a strip fourteen feet wide off of Lots two and seven, in block nine, and lot two, block fourteen, would be assessed at about \$3500. each, ..... 10,500.00

North thirty-nine feet of the east half of lot seven, block fourteen, ..... 1,000.00

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\$21,500.00

This would be a very heavy damage and at the same time, would give the Des Moines Union a very small amount of additional room for tracks.

The only plan which seems to be possible to bring about an adjustment of this controversy, on a basis which is not prohibitive, is to buy of Getchell and Martin all of lots one, two, seven and eight in block nine, lots one and two and

the east half of lots seven and eight, in block fourteen, and have this consideration cover the damage to the mill property; thus settling the whole controversy.

Looking to the future, I believe the Des Moines Union should own all of the property between West Eighth and West Eleventh streets, and between the Des Moines Union tracks and the present Chicago, Rock Island and Pacific tracks, but this would be a very large expenditure for the Des Moines Union to make at the present time, and I do not urge it, but only suggest it to you. Therefore, if the Des Moines Union could buy the north thirty-nine feet off of lots two and seven, in block nine, the north thirty-nine feet of lot two and the north thirty-nine feet of the east half of lot seven in block fourteen, F. M. Hubbell Son & Company will buy the balance of the Getchell and Martin property west of Eighth street. The Des Moines Union by buying the thirty-nine feet in question, would be enabled to put two team tracks thereon with a sufficient and commodious driveway between them to serve the two tracks. At the same time they would be getting rid of the damage to the mill property, and also will have acquired the east and west alley at this point, which is sixteen and one-half feet wide.

I do not know on just what terms I can buy this property. Our negotiations with Getchell and Martin have run over a number of months and their price at the commencement of the negotiation was \$8,000 per lot for the six principal lots ..... \$48,000.  
and for the east half of lot seven, block

fourteen, ..... 4,000.

Total.....\$52,000.

I have gradually beaten them down until I feel confident they would sell all of that property for \$36,000 and I suggested to them on Saturday that I would recommend we buy the property on the basis of \$33,000.

The property in question is the most desirable warehouse location in Des Moines. It also could be made the best site for team tracks that it is possible for the Des Moines Union to obtain. Mr. Calkins is quite familiar with this controversy, and also with the real estate in question. I understand that Mr. Calkins is of the opinion we need some additional team tracks at the present time.

Getchell and Martin wish to make improvements upon their mill property to increase their facilities, and if they should do so, before our controversy is settled, it will simply result in increasing the damages which we would have to pay, should

we resort to condemnation. They wish to make these improvements during the early spring, in order to have the benefit of the increased space for their summer business. Therefore it is desirable that we come to an early decision on this 1000 question. If you are coming west soon, I hope you will find it possible to come to Des Moines and look over the situation on the ground. If you cannot come, I would like to have something definite from you at an early day.

For your information will say that F. M. Hubbell, Son & Company own all of the property not owned by Getchell & Martin, between west Eighth and west Eleventh streets.

Yours truly,

F. C. HUBBELL, Prest.

Copy to Mr. Goodnow.

1001

**Defendants' Exhibit 479.**

**The Wabash Railroad Company.**

Office.

J. Ramsey, Jr. Vice-Prest. & Genl. Manager.

St. Louis, Mo., February 12th, 1901.

Mr. F. C. Hubbell,

President, The Des Moines Union Railway,  
Des Moines, Iowa.

Dear Sir:—

Replying to yours of February 4th.

If the St. Paul Company is willing to purchase the Getchell and Martin property between Eighth and Tenth streets, the Wabash Company will also agree to the purchase. I am in favor, however, of purchasing all of the property referred to instead of purchasing the 39 feet as suggested by you and permitting Hubbell & Sons to purchase the remainder. My experience in the Des Moines and other terminals has convinced me that it is not wise to purchase property piece meal when you are convinced that ultimately you will require the entire property, and if we buy part of this property to-day and Hubbell & Sons buy the other part, it will be but a few years until we will have to buy the rest of it from Hubbell & Sons.

However, the difficulty which confronts us in the Des Moines terminal proposition is the raising of the funds to make these and other purchases and the improvements which are necessary on the property. The stockholders expect the tenants, which in this case are the St. Paul and Wabash Companies

only, to furnish all of the money necessary to take care  
 1002 of the growth of the property and yet the stockholders  
 decline to make such extensions of the leases of the ten-  
 ant companies as would justify them in furnishing the money  
 necessary to pay for the increased facilities. In plain words,  
 the tenants are expected to furnish all the money and in a  
 comparatively few years the property which they have pur-  
 chased and paid for will belong to the stockholders of the Des  
 Moines Union Company, and the present tenants will be, to  
 a certain extent, at the mercy of the stockholders in the mak-  
 ing of new leases. If Mr. Hubbell will agree to the proposi-  
 tion which has been made by Mr. Earling and myself of an  
 extension of the present leases of the St. Paul and Wabash  
 Companies, I think matters will work much more smoothly  
 at Des Moines and that there will be but very little difficulty  
 in providing for future requirements.

Yours very truly,

J. RAMSEY, Jr.,  
 Vice-President & Genl' Manager.

1003

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**Defendants' Exhibit 480.**

February 16, 1901.

Mr. J. Ramsey, Jr.,  
 V. P. & G. M. Wabash R. R.,  
 St. Louis, Mo.

Dear Sir:—

Replying to yours of the 12th will say that I am glad that  
 you are in favor of buying all of the property in question in-  
 stead of the 39 feet. It was the policy of the Wabash in the  
 past to buy as little real estate in Des Moines as possible,  
 and that was why I suggested that the D. M. Union pur-  
 chase the 39 feet and Hubbell, Son & Co. the balance.  
 There is of course a little difficulty respecting the method  
 of raising funds for the uses of the D. M. Union. However,  
 the five-eighths of the stock represented by Hubbell Son &  
 Co. are ready to advance their full quota of the money. They  
 have always done this in the past, and in fact have put up  
 most all of the money which has gone into the D. M. Union Ry.  
 Co. they having bought of you practically all of the bonds  
 which you have had of the company at a time when the bonds  
 had no market and Hubbell, Son & Co. in recent years have  
 furnished all of the money which has been needed by the com-  
 pany from time to time. We have worked in season and out  
 of season for the good of the D. M. Union, and we believe  
 that its present prosperous condition is almost wholly due

to our money and our labor. It is not the policy of Hubbell, Son & Co. to treat the Wabash and the C. M. & St. P.

Companies in any but a fair manner. We have never  
1004 knowingly done anything to injure the two Companies.

We have never refused to give the Wabash and C. M. & St. P. a long contract, and are willing to enter into negotiations with you at once looking to a long termed contract. We wish to treat your companies as partners in this property, and it will be our aim to offer you a new contract on such a basis as one partner should in fairness offer to another. If you and the C. M. & St. P. Co. think that the time has arrived for the making of a new contract, I suggest that the negotiations be opened that it may be discovered who among us are willing to do the fair thing.

Yours truly,

F. C. HUBBELL,  
President.

1005

**Defendants' Exhibit 481.**

April 25, 1901.

Mr. J. Ramsey, Jr.,

V. P. & G. M. Wabash R. R.,  
St. Louis, Mo.

Dear Sir:—

Herewith I hand you a clipping from a newspaper from which you will note that the Chicago & North Western are about to construct a new passenger station at Des Moines and we are told it will be a very handsome one. In case this building is built it will then give all the railroads entering Des Moines independent and sufficient passenger stations so that the Des Moines Union cannot expect to get any additional revenue by reason of other railroad tenants. This loss to the Des Moines Union for rental and also for maintenance is a direct loss to your company and the St. Paul company not only as stockholders in the Des Moines Union, but as tenants, because all the money paid to the Union by tenant companies is deducted from your bills and tends to make them that much smaller.

We are well aware that there is a disposition to allow no other companies to enter the Union station until the Wabash and St. Paul roads are given new contracts and upon a basis which we as stockholders in the Des Moines Union cannot concede. The Des Moines interests shall continue to work for what we believe to be the best interests of the terminal company and are willing to make all reasonable concessions to your company and the St. Paul Company. We

1006 believe that you agree with us in reference to the admission of other tenants and regret that you feel it is to your interests to concur in the policy of the St. Paul road with reference to Des Moines Union affairs. The admission of new tenants into the Des Moines Union at the present moment to us is only to gratify a sentiment long cherished to have a Union Station at Des Moines not only in name, but in fact because we all understand that the rentals will go to the Wabash and St. Paul Companies.

Pardon me for again bringing this subject to your attention. I have felt that it is a duty that I owe to the Des Moines Union to do everything possible to further its prosperity and I have also felt that it is my duty to advise your company and the St. Paul company of this step of the North Western road. If the Chicago & North Western and the Chicago, Burlington & Quincy Roads were occupying our station on a fair rental basis, it would relieve your company and the St. Paul Company from all passenger expense at Des Moines. Even in these times of great prosperity it seems strange that any railroad can refuse such a chance. I feel that the only chance to influence Mr. Earling will be through you and I greatly hope for your cooperation as I feel that this is the last opportunity to bring about an agreement.

Yours truly,

F. C. HUBBELL,  
President.

1007

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**Defendants' Exhibit 482.**

March 16, 1901.

Mr. J. Ramsey, Jr.,  
V. P. & G. M. Wabash R. R.,  
St. Louis, Mo.

Dear Sir:—

Before replying to your last letter respecting the Carbon-dale situation, I would again like to ask you whether or not you will sell to the D. M. Union either the whole or an undivided half interest in your main line from our present terminus to Ross Jct. If this can be accomplished, I think we will be able to bring about an agreement with the C. M. & St. P. Road for the manner of handling the expense of operating the track.

Yours truly,

F. C. HUBBELL,  
President.

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1008

**Defendants' Exhibit 483.****Chicago, Milwaukee & St. Paul Railway Co.**

Office of the President.

Chicago, March 25th, 1901.

Mr. F. C. Hubbell,

President, Des Moines Union Ry. Co.,

Des Moines, Iowa.

Dear Sir:—

Replying to your letter of March 16th: The St. Paul Company is not willing to become a party to the construction of a track paralleling the Wabash Railroad. I have always felt that, if the business should ever become large enough to justify it, Mr. Ramsey would be willing to reduce his trackage charge to a fair basis. Furthermore, I do not believe it is good policy to parallel other roads.

Yours truly,

(Signed) A. J. EARLING, President.

1009

**Defendants' Exhibit 484.****The Wabash Railroad Company.**

Office.

J. Ramsey, Jr., Vice-Prest. &amp; Genl. Manager.

St. Louis, Mo. On Line, May 2nd, 1901.

Mr. F. C. Hubbell,

President, The Des Moines Union Ry. Co.,

Des Moines, Iowa.

Dear Sir:—

I have yours of April 25th.

You are no more in favor of having all railroad lines use the Union Station at Des Moines than I am and I would be very glad to see this result brought about. At the same time I am constrained to agree with Mr. Earling that the present tenant companies, which have carried the burdens of the property all these past years and which to-day, and for the remaining period of their leases, are forced to guarantee the Des Moines Union Company against the failure of other companies to pay rentals or other charges, are entitled to as good terms and as long time leases as would be given by the Des Moines Union Company to any other road. Your proposed lease to the Burlington was actually for a period of fifty years on a very low (comparatively speaking) rental, and yet you decline to extend the period of the St. Paul and Wabash leases so that these com-

panies would be protected by a lease equal to that of the Burlington. In my opinion, this request of the St. Paul and the Wabash is not an improper nor an unreasonable one.  
 1010 The St. Paul and the Wabash, up to the present time, have been the companies which have built up the terminals, have carried all of its fixed charges, have furnished a large amount of the cash required for improvements and additions, and they are entitled to consideration at least equal to that given to outside companies which you now wish to get into the station.

I would be very glad to have this matter arranged so as to secure the use of this station by all lines while, at the same time, protecting the interests of your present tenants.

Yours very truly,

J. RAMSEY, Jr.

1011

**Defendants' Exhibit 485.**

May 6, 1901.

Mr. J. Ramsey, Jr.,  
 V. P. & G. M. Wabash R. R.,  
 St. Louis, Mo.

Dear Sir:—

Replying to yours of the 2nd respecting the Des Moines Union situation would advise that the C. B. & Q. contract was only for a period of seventeen years, or the exact date that your own contract expires. I have tried to make this point clear to you in previous letters, but you are evidently still under a misapprehension as to the terms of the C. B. & Q. contract. In the original draft of the contract it did provide for a longer period, but the C. B. & Q. waived that point and were willing to take a contract for seventeen years. This being the case, and as all the money which the C. B. & Q. was to pay was to go to your company, and the St. Paul company, and inasmuch as you concurred in all the original negotiations of the C. B. & Q. contract it seems to me that it satisfies every objection which you have raised to the contract.

Referring to the burdens which you have mentioned that the Wabash and St. Paul have had to carry for so long a period, would call your attention to the fact that the St. Paul road did not become interested in the Des Moines Union property until about two years ago and to our minds the St. Paul road has had no burdens to carry. As to the burdens carried by your own line I have in part explained the past history to you.

Would further state that in the organization of the Des  
1012 Moines Union the Wabash received a very large "take  
off" and it was this transaction, coupled with others  
which followed while the Wabash was still a dominant factor  
in the company that loaded the Des Moines Union with debts  
and during the first years of the company when it was recog-  
nized by all that the company had been overloaded and that  
the bonds were not a good security, F. M. Hubbell & Son  
bought most of the bonds held by the Wabash at a price above  
the market value of the bonds. However this is all ancient  
history and to my mind ought not to enter much into our con-  
siderations in making a new contract.

You and Mr. Earling both seem to think that the guaranty  
(so called) of the Wabash and St. Paul is a very serious mat-  
ter to your companies and of very great value to the Des  
Moines Union. We do not consider the guaranty of any more  
value to us than your simple agreement to pay your rentals  
and in the new contract with your company we will leave out  
the feature of the guaranty so as to eliminate at the start one  
of the features on which you and Mr. Earling have dwelt at  
such length.

Mr. Goodnow has asked me to go to Chicago this week to  
take up with him the question of a new contract, and while we  
feel that it is not advisable for the Des Moines Union to enter  
into a new contract with your company or the St. Paul com-  
pany at this time in view of the fact that we have a contract  
which will not expire for seventeen years, nevertheless I shall  
go to Chicago and endeavor to outline a contract which will be  
acceptable to the Des Moines directors. Inasmuch as

1013 any new contract if made with your company will give  
the Wabash and the St. Paul the benefit of any money  
paid to the Des Moines Union under the C. B. & Q. contract,  
is it not very desirable that we renew our negotiations with  
the C. B. & Q. and endeavor to secure them at once? Even  
though Mr. Goodnow and I can agree on the general plan of  
the new contract it will in the nature of things take a long  
time to consummate it as all these contracts do and it seems  
to me that the making of the C. B. & Q. contract should be  
urged while the C. B. & Q. company are in the humor to trade.  
After having secured the C. B. & Q. I believe we will be able  
to get a very much higher rental from the C. & N. W. because  
the C. & N. W. need our station both for their competitive busi-  
ness with the St. Paul and also because of their very large in-  
terchange business with the C. B. & Q.

Yours truly,

F. C. HUBBELL, President.

1014

**Defendants' Exhibit 486.**  
**The Wabash Railroad Company.**

Office.

J. Ramsey, Jr., Vice-Prest.  
 & Genl. Manager.

St. Louis, Mo., May 16th, 1901.

Mr. F. C. Hubbell,  
 President, The Des Moines Union Railway Co.,  
 Des Moines, Iowa.

Dear Sir:—

I have your letters of May 6th and 15th relative to contracts for the Des Moines Union passenger station.

I would be very glad to see the Northwestern as well as the Burlington company use our Union Station, but, as I have stated in previous correspondence, I do not feel that the use of this station by other lines will be of sufficient direct benefit to the Wabash to justify our sacrificing any of our present rights or accepting any terms and conditions for an extended lease which would not fully protect the Wabash in all of its interests. I have been waiting since the receipt of yours of the 6th to hear from you as to the result of your interview with the St. Paul people in Chicago relative to the new lease. I would be very glad to have from you an outline of the new lease which you propose.

Yours very truly,

J. RAMSEY, Jr.  
 Vice-President & General Manager.

1015

**Defendants' Exhibit 487.**

May 17, 1901.

Mr. J. Ramsey, Jr.,  
 V. P. & G. M. Wabash, R. R.,  
 St. Louis, Missouri.

Dear Sir:—

Replying to yours of the 16th will say I made two trips to Chicago in the interest of a new contract with your company, and the St. Paul Company, and at the end of the second trip Mr. Goodnow told me that Mr. Earling had decided that his company would not make a new contract with us at present but that it looked more favorable for the St. Paul company to

THE C., M. & ST. P. RY. CO. ET AL. VS.

consent to the C. B. & Q. and C. & N. W. Companies entering our station and that is the present situation of the case.

Yours truly,

F. C. HUBBELL,  
President.

1016

**Defendants' Exhibit 488.**

**Chicago, Milwaukee & St. Paul Railway Co.**

Office of the General Superintendent.

Chicago, June 4th, 1901.

Mr. F. C. Hubbell,  
President, Des Moines Union Ry.,  
Des Moines, Iowa,

Dear Sir:—

Replying to your letters of the 28th ult.

We will consent to giving the C. B. & Q. the joint use of the Des Moines Union Passenger station at the rental previously agreed upon, providing the contract is not to continue for a longer period than that of the contract with the Wabash and St. Paul Companies, and also providing the general terms of the contract are satisfactory to the St. Paul Company.

Truly yours,

(Sgd) C. A. GOODNOW,  
General Superintendent.

1017

**Defendants' Exhibit 489.**

**The Wabash Railroad Company.**

General Offices,

St. Louis, Mo., January 24, 1902.

Mr. J. Ramsey, Jr.,  
President.

Mr. F. C. Hubbell,  
President, Des Moines Union Ry. Co.,  
Des Moines, Iowa,

Dear Sir:—

Referring to yours of Jan. 14th.

Before approving of this arrangement for the Schwarzhild & Sulzberger building, I would like to know what the building

will cost. If it is not too large an amount, it ought to be raised by the Des Moines Union Company on regular loan.

Yours very truly,

J. RAMSEY, Jr.  
President.

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**Defendants' Exhibit 490.**

1018

February 1, 1902.

Mr. J. Ramsey, Jr.,  
Pres't. Wabash R. R.,  
St. Louis, Missouri.

Dear Sir:—

Referring to yours of January 24th with reference to our building for Schwarzhild and Sulzberger will say we constructed a building for the Cudahy Packing Company to all intents and purposes the same as S. & S. will require and it cost us fifty-five hundred dollars. It has been the usual practice for F. M. Hubbell, Son & Co. to advance the money to build these buildings and as soon as the rents from the building reimburse Hubbell, Son & Co. then the rents and the building belong to the Des Moines Union. If the Des Moines Union could spare the funds of course it would be my choice to have them build the building with their own money, but as you will recall the Des Moines Union is always in need of funds for its ordinary operation. The rental which S. & S. would pay us we consider very remunerative, and at the same time we would secure their business which makes it doubly attractive. The C. M. & St. P. people have given their authority and expressed their willingness that the funds for building the buildings be advanced by Hubbell, Son & Company. This last however is a matter of detail and either plan is agreeable to us. Please advise promptly as S. & S. advised they will send their men to Des Moines in a very short time to close this trade.

Yours truly,

F. C. HUBBELL,  
Pres't.

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**Defendants' Exhibit 491.****The Wabash Railroad Company.**

General Officers.

J. Ramsey, Jr.,  
President.

St. Louis, Mo. February 3, 1902.

Mr. F. C. Hubbell,  
President Des Moines Union Railway,  
Des Moines, Iowa.

Dear Sir:—

Referring to yours of Feb. 1st, relative to S. & S. building. I am in favor of putting up the building for the Schwartz & Sulzberger Company and have no objection to Hubbell, Son & Co. advancing the money to put up the building. There should be, however, a proper agreement drawn between Hubbell, Son & Co. and the Des Moines Union Railway Company covering this matter, fixing the rate of interest to be paid, etc.

Yours very truly,

J. RAMSEY, Jr.,  
President.

**Defendants' Exhibit 492.****The Wabash Railroad Company.**

General Officers.

J. Ramsey, Jr.,  
President.

St. Louis, Mo. February 26, 1902.

Mr. F. C. Hubbell,  
President Des Moines Union Railway,  
Des Moines, Iowa.

My dear Sir:—

I have received copy of the Des Moines "Leader" of February 22nd containing item headed "New Terminal Station."

The item places the Wabash in a position of being opposed to the development of Des Moines by the construction of new railroads, also as being opposed to the admission of other railroads to the use of the Des Moines terminals.

Therefore, I think I am entitled to know from you if the item referred to has your endorsement.

It also strikes me that you cannot in good faith, as President of the Des Moines Union Railway, either develop a new

terminal in opposition to the Des Moines Union or even encourage any such opposition.

I think under the circumstances I am entitled to a full reply from you on the subject.

Yours very truly,

J. RAMSEY, Jr.,  
President.

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**Defendants' Exhibit 493.**

March 3, 1902.

Mr. J. Ramsey, Jr.,  
Presd. Wabash R. R.,  
St. Louis, Missouri.

Dear Sir:—

Replying to yours of the 26th of February, will say that the article which appeared in the "Leader" of February 22nd, was wholly without authority from us and without our knowledge and came as a great surprise to us. I do not in any way endorse the same. We did not deny the statements in the paper, because it has never been our policy to take any notice of newspaper items. It is true that the article places the Wabash company in a wrong light, but if you feel that a denial is desirable, I suggest that it come directly from your company, or that you write me just what kind of a denial you desire.

Referring to the latter part of your letter relating to our good faith with respect to the management of the Des Moines Union will say I had hoped that our past record would be a sufficient proof of our loyalty to our company as officers and directors. We never have voted, nor have we ever done anything knowingly that would injure the Des Moines Union Railway Company nor have we ever before had any one intimate to us that our intentions were of doubtful propriety.

I wrote to you and also to Mr. Goodnow at some length on September 20, 1901, urging you to favor a contract with the Iowa Falls road, and also urging you to induce Mr. Earling to modify his position. I have at different times since September, by correspondence and personally, urged the C. M. & St. P. officers to consent to the Des Moines Union entering into an arrangement with the Iowa Falls road for freight terminals and I hand you herewith a copy of the last letter which I received from Mr. Goodnow, showing that they still refuse to alter their position. I again

desire to suggest that you write to Mr. Earling to withdraw his positive refusal to allow the Iowa Falls road to use our terminals for freight purposes. As stated in my letter of September 28th, our firm owns the necessary property to furnish the Iowa Falls road a very ample convenient, and desirable terminal, including the necessary ground for storage, shops, round house, etc. We have bought this property very carefully and propose to allow the Iowa Falls road, or any other road seeking entrance into Des Moines, to use our property on very liberal terms. This so-called "new terminal company" will not be in opposition to the Des Moines Union because we propose to only offer it to such roads as cannot get facilities from the Des Moines Union. You certainly will recognize that our interests in Des Moines make it necessary that a railroad, seeking entrance into Des Moines, should have ample and cheap terminal facilities, and we have placed ourselves in a position to take care of all new comers, and we cannot see wherein we act in bad faith, if we only trade with such railroads as the Des Moines Union refuse to receive. On the contrary, we, who represent a majority of the stockholders of the Des Moines Union, feel that an injustice has been done us and our Company in refusing both the Iowa Falls Company and the C. R. & Q. Company. I should be pleased to have you write me and state to me candidly what the objections are to our position. Your answer to my letter of September 20th, did not indicate to us that you considered our position wrong, and inasmuch as we have put forth so much effort in the upbuilding of the Des Moines Union, we feel entitled to a candid expression from you.

Yours truly,

(Signed) P. C. HUBBELL, Pres.

Copy.

1024

#### **Defendants' Exhibit 494.**

#### **The Wabash Railroad Company.**

General Offices.

J. Ramsey, Jr., President.

St. Louis, Mo. March 3, 1882.

Mr. P. C. Huddell,

President, Des Moines Union Railway,

Des Moines, Iowa.

Dear Sir:—

I beg to acknowledge receipt of yours of March third.

While in the first paragraph of your letter you seem to deny the correctness of the newspaper article referred to in my let-

ter of February 25th and in the second paragraph seem hurt by what I say regarding bad faith in the management of the Des Moines Union and say you have never voted or ever done anything knowingly to injure the Des Moines Union Railway Company, the balance of your letter goes on outlining to a certain extent your position and you say "we have placed ourselves in the position to take care of all new comers and we cannot see wherein we have acted in bad faith if we only trade with such railroads as the Des Moines Union refuse to receive" and further "This so called 'new terminal company' will not be in opposition to the Des Moines Union because we propose to only offer it to such roads as can not get facilities from the Des Moines Union."

From the above, it is evident to me that the newspaper article was based on facts and that Hubbell & Sons have organized either a new terminal company or are preparing to offer terminal facilities to new roads in competition with the Des Moines Union. In your first paragraph you admit "it is true that article places the Wabash in a wrong light" but at the same time, by not having denied the correctness of the statement, at least so far as the Wabash is concerned you seem to be perfectly willing to allow the Wabash Company to be put in a wrong light before the people of Des Moines practically through information which has evidently come from either your office or from those conversant with your plans for new terminal facilities.

By reference to the correspondence passing between us on the subject of the Des Moines, Iowa Falls & Northern Company using the Des Moines terminals, I need only refer you to my letter of September 24th in which I use the following language: "I am in favor of admitting this road or any other road to the use of the Des Moines terminals on the same terms and conditions as the use of them is granted to the present tenants". This was also the position of the Wabash Company relative to the C. B. & Q.

So far as I understand Mr. Earling's views on this question of admitting other roads to the use of the terminals, he stands on exactly the same ground as the Wabash does, namely, that any other company can be admitted on the same terms and conditions as the Wabash and St. Paul companies. This condition of the admission of new companies is strictly in accordance with the contract which the Des Moines Union Company entered into with the present tenant lines and the present tenants are not asking anything outside of their contract rights

when they insist that that term and condition be complied with.

By reference to Mr. Earling's letter of March 25th addressed to you, you will find the only objection he urged at that time against the admission of the Des Moines, Iowa Falls & Northern was that that road was purely a paper road and had no existence, and in his opinion it would be "time enough to consider the making of a contract with that company when it has a road in actual operation."

As you well know, the only difference really between the tenant lines and Hubbell & Sons (owners of the controlling stock interest in the Des Moines Union) is that the tenant companies object to the admission of other companies to the use of these terminals at a less rental and on better terms than those held by the present tenants for the purpose of increasing the value of the stock of the company at the expense of the present tenants.

You ask me to state candidly what the objections are to your position. I will give them as requested, candidly: You are the president of the Des Moines Union and as such President you have no right, officially or personally to encourage, aid or abet in the slightest manner the construction or development of any other terminal company in the city of Des Moines. If you wish to do so, you should resign your position of president and allow some one, whose sole interest would be that of the Des Moines Terminal Company and the protection of the rights of the tenant companies under the contract existing between the Des Moines Company and the tenant lines.

Yours very truly,  
J. RAMSEY, Jr., President.

1027

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**Defendants' Exhibit 495.**

March 7, 1902.

Mr. J. Ramsey, Jr.,  
Prest. Wabash R. R.,  
St. Louis, Missouri.

Dear Sir:—

Replying to yours of the 5th, and answering the first part of your letter will say that we did not feel that we had authority to make a public denial for the Wabash Company respecting its attitude towards the Des Moines Union Railway Company. In my letter to you of the third, I asked you either to make a denial yourself, or to send me the form of denial which you

would like to have made by us. We have never said that the Wabash were opposing the admission of other roads to the Des Moines Union Terminals.

Answering the latter part of your letter will say we understand perfectly that your company is willing to allow the Iowa Falls or any other road to use our terminals under the same terms and conditions with yourselves and the C. M. & St. P. Company, but your understanding respecting Mr. Earling's views on this subject is entirely wrong. Mr. Earling has positively refused to allow the Iowa Falls road to use any part of the Des Moines Union Terminals for freight purposes under any circumstances. It is not a question of rental. He simply refuses to consider any proposition for freight terminals.

Yours truly,

F. C. HUBBELL,  
President.

1028

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**Defendants' Exhibit 496.**

Jan'y 14, 1902.

Mr. J. Ramsey, Jr.,  
V. P. & G. M. Wabash R. R.  
St. Louis, Missouri.

Dear Sir:—

Merris. Schwarzschild & Sulzberger, pork packers of Kansas City are asking for a location upon our tracks, for a distributing house the same as Armour, Swift and other packers have. They are asking us to build a building for them the same as the one we constructed for Cudahy Packing Co., a few years ago. We are charging Cudahy eighty dollars per month for a lease of ten years. We will provide in the S. & S. lease for the right on our part to cancel the lease at any time on six months notice, in case we need the ground for railroad purposes the same as is now provided in the Cudahy lease. It is our opinion that we will not need this ground for tracks within the ten years period and possibly much longer, and we believe that this is a desirable acquisition for the Des Moines Union to secure.

In order that it might not cost the Des Moines Union any money, will say that F. M. Hubbell Son & Company are willing to advance all the money that it will cost to build the building and will take the rents from the building as they are paid by S. & S. until the rents repay Hubbell, Son & Company for the money advanced with interest. after which time the building will belong to the Des Moines Union, free and clear and the

rents will belong to the Des Moines Union. I would like to have as early answer as possible to this proposition.

Copy to Mr. Goodnow.

Yours truly,

F. C. HUBBELL, Prest.

1029

**Defendants' Exhibit 497.**

**Chicago, Milwaukee & St. Paul Railway Co.**

Office of General Manager.

Chicago, March 9th, 1903.

Mr. J. A. Wagner,  
Superintendent, D. M. U. R'y.,  
Des Moines, Iowa.

Dear Sir:—

Referring to the proposed extension to the Carbondale mines as outlined in Mr. Hubbell's letter of last May, I beg to say that we have definitely decided that we do not care to entertain this proposition. There is no way of telling how long we shall want to get coal from the Carbondale mines and it may be that the time will be limited, and besides that we do not care to enter into any arrangements for extension of the Des Moines Union property until the old surplus earning proposition has been entirely disposed of.

Yours truly,

(Signed) H. R. WILLIAMS,  
General Manager.

1030

**Defendants' Exhibit 498.**

**The Wabash Railroad Company.**

General Offices.

St. Louis, Mo., March 11, 1903.

Mr. J. Ramsey, Jr.,  
President.

Mr. F. C. Hubbell,  
President, Des Moines Union Railway,  
Des Moines, Iowa.

Dear Sir:—

Replying to your letter of February 10th.

In my opinion, the Wabash Company would not be justified in selling its track and right of way between the Carbondale

Junction and the Des Moines Union road, nor in selling a one-half interest in it. I think the trackage now charged is reasonable. If you have any proposition to make in connection with it, however, I will be glad to consider it.

Yours very truly,

(Signed) J. RAMSEY, JR.  
President.

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**Defendants' Exhibit 499.**

**The Wabash Railroad Company.**

General Offices.

E. B. Pryor,  
Assistant to President,  
Executive Department.

St. Louis, Mo. March 27th, 1903.

Mr. J. A. Wagner,  
Supt., Des Moines Union Ry. Co.,  
Des Moines, Ia.

Dear Sir:—

Referring to our conversation of today, I have to advise you that I will at once proceed to draw up a new contract between the Wabash Railroad Company and the Des Moines Union Railway Company, on the lines as agreed upon between us, namely, to allow your company the use of the main track of the Wabash Railroad Company from the point of connection (with) the tracks of the Union Company to a point of connection with the switch tracks to be laid by the Carbondale Coal Company at or near Old Hastie. The contract will be for a period of five years, with the privilege of renewal for five years additional, with the right on the part of the Wabash Railroad Company to cancel the contract at any time after the expiration of the first five years upon giving six months' written notice to the Des Moines Union Railway Company.

The Des Moines Union Railway Company to transport the cars over the track with its own motive power and the compensation to the Wabash Railroad Company to be the sum of \$1.00 for each loaded car and 50c for each empty car transported over the said track in either direction; this rate to apply whether the cars are destined to the switch at Ross Junction or the new switch to be established near Old Hastie.

The contract will also provide that your company may be at liberty to change the track connection at Ross Junction,

making the connection on the south side of the trestle instead of the north side, as now located.

Yours truly,

(Signed) E. B. PRYOR.

1033

### **Defendants' Exhibit 500.**

This Agreement made and entered into this 27th day of March, A. D. 1903, by and between the Wabash Railroad Company, party of the first part, and the Des Moines Union Railway Company, party of the second part, Witnesseth: That

Whereas, the party of the second part, in order to reach the tracks of the Carbondale Coal Company, located east of the City of Des Moines, desires the use of the main track of the party of the first part, extending from the point of connection with the track of the party of the second part, to the points of connection with the said switch tracks of said Carbondale Coal Company, at what is known as Ross Junction, and at or near what is known as Old Hastie, as shown upon the blue print hereto attached, marked Exhibit A., and made a part of this agreement, for the handling of coal from the mines of said Coal Company;

Now Therefore, in consideration of the covenants and stipulations herein set forth, the parties hereby agree, each with the other, as follows:—

First. The party of the first part hereby grants unto the party of the second part the right to use its said main track and appurtenances, as shown in red upon said blue print, for the purpose of moving loaded and empty cars to and from the lines and tracks of said Coal Company, as shown on said blue print, with its own engines and crews.

The party of the second part shall also have the right to change the present switching connection at Ross Junction so as to make the connection on the south side of the trestle at said point, as indicated on said blue print and shall have the right to make the connection near Old Hastie, either from the east or west as shown on said blue print.

Second. The party of the second part agrees in consideration of the rights herein given it, to pay to the party of the first part, for the use of said track, the sum of One Dollar (\$1.00) for each loaded car, and Fifty Cents (\$.50) for each empty car transported over said track by the motive power of said second party, in either direction, and whether destined

to or transported from the coal switch at said Ross Junction, or the switch near Old Hastie, which payment shall be made to the party of the first part at the end of each month, during the continuance of this agreement.

Third. The party of the second part will also pay all mileage which may be charged for cars moved over said track by its engines and crews, and will re-imburse said first party for any and all payments of money that it may be required to make on this account.

Fourth. It is further understood and agreed between the parties hereto that this agreement governs only the business which the party of the second part proposes to move to and from the said switch tracks of said Coal Company, and no other.

Fifth. All trains of the party of the first part shall at all times have precedence over trains of the party of the second part in the use of said track, and said party of the second part shall be subject to and governed by the time schedules and rules and regulations of the party of the first part, in the use of said track.

Sixth. All property transported by the party of the second part over the tracks of the party of the first part, shall be at the risk of the party of the second part. The said second party assumes all risk and responsibility for damage or injury to persons or property transported or owned by it, growing out of or caused by any imperfection of said tracks and appurtenances, or misplacements of switches, or for any damage to stock or injury that may occur to persons while walking on the said track by being struck by trains of said second party, as well as all risks of damage or injury to persons or property growing out of or caused by fire set out by the locomotives of the said second party, or for any other damage that may arise from the movement of the trains handled by said party of the second part.

In cases of damages or injuries to persons or property occurring on the trains of either party while on the said track, the proper officer of the said first party shall adjust and settle same, and a release shall be made to both companies, providing that the said first party shall not make any settlement of a claim which the party of the second part is to pay under the provisions hereof, without consultation with the proper officers of the said second party.

The said party of the second part promises and agrees to protect and save harmless the said party of the first  
1036 part against any claims or demands on account of injuries to persons or property transported by it and also against any claims or demands on account of any injuries to any employes of the party of the second part, and promises to repay the party of the first part any sums which it may be required to disburse because of such claims. It will also pay to said party of the first part full compensation for any injury to persons or property for which the said first party may be held liable by reason of the negligence or want of care or caution of the servants or employes of the party of the second part, or by reason of the use by the said second party of defective machinery or appliances. Provided, however, that any damage arising from the carelessness of the sole employes of the party of the first part, shall be paid by the said first party.

When any injury or damage to persons or property shall be caused by the operation of trains over the track hereinbefore described, and it cannot be determined which party is responsible therefor, the cause shall be regarded as concealed, and the compensation made to the party injured shall be apportioned to and paid by the parties hereto in equal parts.

Seventh. This agreement shall continue in full force and effect for a period of five (5) years from the date hereof, with the privilege to the party of the second part and renewal for five (5) years additional, provided, notice is given to the party of the first part that such renewal is desired, not less than three (3) months prior to the termination of this agreement; and the party of the first part reserves the right to cancel  
1037 this agreement at any time after the expiration of said first term of five (5) years, upon giving six (6) months' written notice to the party of the second part of its intention so to do.

Eighth. That all questions arising under this agreement which cannot be amicably adjusted by the proper officers of the parties hereto, shall be finally settled by arbitration, as is customary between railroad Companies.

In Witness Whereof, the parties hereto have caused these presents to be signed by their duly authorized officers, the day and year first above written.

THE WABASH RAILROAD COMPANY,

(Seal)

By J. Ramsey, Jr., President.

THE DES MOINES UNION RY. CO., ET AL.

571

Attest:

E. B. Pryor,  
Assistant Secretary.

Pryor.

THE DES MOINES UNION RAILWAY  
COMPANY,

By H. D. Thompson, Vice President.

(Seal)

Attest:

F. M. Hubbell, Secretary.

1038

**Defendants' Exhibit 501.****The Wabash Railroad Company.**

General Offices,

St. Louis, Mo. April 9th, 1903.

E. B. Pryor,  
Assistant to President.  
Executive Department.Mr. J. A. Wagner,  
Supt., Des Moines Union Ry. Co.,  
Des Moines, Ia.

Dear Sir:—

I hand you herewith, in duplicate, new contract covering the use of Wabash tracks from the connection between the Wabash and the Des Moines Union Railway to Ross Junction and Old Hastie. If the contract is satisfactory to your company in its present form, have it executed and return to me and I will then have it executed on the part of the Wabash Railroad Company.

Yours truly,  
(Signed) E. B. PRYOR.

1039

**Defendants' Exhibit 502.****The Wabash Railroad Company.**

General Offices,

St. Louis, Mo. September 22nd, 1903.

E. B. Pryor,  
Assistant to President.  
Executive Department.Mr. J. A. Wagner,  
Superintendent Des Moines Union Ry. Co.,  
Des Moines, Ia.

Dear Sir:—

Referring to our conversation of to-day we are willing to make a contract with you to allow the Des Moines Union Rail-

way Company to run its cars and engines from the point of connection between the Des Moines Union Railway and the Wabash, as shown at point marked "A" on blue print attached hereto, down to your new gravel pit at point marked "B" on the enclosed blue print, and will make a charge against your company for such trackage at the rate of 50c per loaded car, empties free. If this meets with the approval of your company advise me to that effect and I will have regular contract drawn up.

Yours truly,  
(Signed) E. B. PRYOR.

1040

### **Defendants' Exhibit 503.**

This Agreement made and entered into this 14th day of October, A. D. 1903, by and between the Wabash Railroad Company, party of the first part, and the Des Moines Union Railway Company, party of the second part, Witnesseth That

Whereas the second party, under a certain contract, dated the 27th day of March, 1903, is operating its cars and engines to the so-called Carbondale mines, east of the city of Des Moines; and,

Whereas, the second party desires a further use of the main track of the party of the first part, extending from the point of connection with the track of the party of the second part to the center of East Thirtieth Street in the city of Des Moines, as shown upon the blue print hereto attached, marked Exhibit "A" and made a part of this contract for the purpose of handling gravel.

Now Therefore in consideration of the covenants and stipulations herein set forth, the parties hereby agrees each with the other as follows:

First: The party of the first part hereby grants unto the party of the second part the right to use its said main tracks and passing tracks, and appurtenances, as shown in red upon said blue print, for the purpose of moving loaded and empty cars, with its own engines and crews, to and from the lines and tracks of the second party, which said second party proposes to hereafter construct and maintain.

Second. The second party agrees in consideration of 1041 the rights herein given it, to pay to the party of the first part, for the use of said tracks and appurtenances, the sum of fifty cents for each loaded car (empties free) transported over said tracks by the motive power of the second party, in

either direction, and whether destined to or transported from said switch tracks, herein proposed to be constructed by the second party, which payments shall be made to the party of the first part at the end of each month, during the continuance of this agreement.

Third: The party of the second part will also pay all mileage which may be charged for cars moved over said tracks by its engines and crews, and will reimburse said first party for any and all payments of money that it may be required to make on this account.

Fourth: It is further understood and agreed between the parties hereto that this agreement governs only the business which the party of the second part proposes to move to and from said switch tracks of the second party and no other.

Fifth: All trains of the party of the first part shall at all times have precedence over trains of the party of the second part in the use of said tracks, and said party of the second part shall be subject to and governed by the time schedules, rules and regulations of the party of the first part in the use of said tracks.

Sixth: All property transported by the party of the second part over the tracks of the party of the first part, shall be at the risk of the party of the second part, and re-  
1042 sponsibility for damage or injury to persons or property transported or owned by it, growing out of or caused by any imperfection of said tracks and appurtenances, or misplacements of switches, or for any damage to stock or injury that may occur to persons while walking on the said tracks by being struck by trains of said second party, as well as all risks of damage or injury to persons or property growing out of or caused by fire set out by the locomotives of the said second party, or for any other damage that may arise from the movement of the trains handled by said party of the second part.

In case of damage or injuries to persons or property occurring on the trains of either party while on the said tracks, the proper officer of the said first party shall adjust and settle same, and a release shall be made to both companies, providing that the said first party shall not make any settlement of a claim which the party of the second part is to pay under the provisions hereof, without consultation with the proper officers of the said second party.

The said party of the second part promises and agrees to protect and save harmless the said party of the first part

against any claims or demands on account of injuries to persons or property transported by it, or to its employees, and also against any claims or demands on account of any injuries to any employees of the party of the second part, and promises to repay the party of the first part any sums which it may be required to disburse because of such claims. It will also pay to said party of the first part full compensation for any injury to persons or property for which the

1043 said first party may be held liable by reason of the negligence or want of care or caution of the servants or employees of the party of the second part, or by reason of its failure to observe the conditions and requirements of this agreement, or by reason of the use by the said second party of defective machinery or appliances. Provided, however, that any damage arising solely from the carelessness of the sole employees of the party of the first part, shall be paid by the said first party.

When any injury or damage to persons or property shall be caused by the operation of trains over the track hereinbefore described, and it cannot be determined which party is responsible therefor, the cause shall be regarded as concealed, and the compensation made to the party injured shall be apportioned to and paid by the parties hereto in equal parts.

Seventh: This agreement shall continue in full force and effect until the first day of May, 1918.

Eighth: That all questions arising under this agreement which cannot be amicably adjusted by the proper officers of the parties hereto, shall be finally settled by arbitration, as is customary between railroad companies.

In Witness Whereof, the parties hereto have caused these presents to be signed by their duly authorized officers, the day and year first above written.

THE WABASH RAILROAD COMPANY,

By J. Ramsey, Jr., President.

Attest:

E. B. Pryor,

Asst. Secretary.

1044

DES MOINES UNION RAILWAY  
COMPANY,

By F. C. Hubbell,

President.

Attest:

F. M. Hubbell,

Secretary.

1045

**Defendants' Exhibit 504.**

Subject: Rents, etc. D. M. U. Ry. Co.

Chicago, Milwaukee &amp; St. Paul Railway Co.

Office of Comptroller.  
860 Old Colony Building.H. G. Haugan,  
Comptroller.

Chicago, March 7th, 1904.

Mr. J. A. Wagner, Supt.,  
Des Moines Union Railway Company,  
Des Moines, Iowa.

Dear Sir:—

I understand that at the Des Moines Union station there are a number of offices rented, also news stand, lunch room, and other privileges which are not accounted for in your monthly statements and bills. I believe you are also collecting rents on certain property on which we have to pay our proportion of taxes.

I do not remember having seen any statement or account of rents collected by your company.

It seems to me that these rents, etc. should be applied towards paying part of the operating expenses similar to the manner in which the business is conducted at the Union Depots at Chicago, Omaha, St. Paul and Kansas City.

Yours truly,

H. G. HAUGAN,  
Comptroller & Land Commr.

289 R

1046

**Defendants' Exhibit 505.**

Des Moines, March 22d, 1904.

Mr. H. G. Haugan,  
Comptroller & Land Commissioner C. M. & St. P. Ry.,  
Chicago, Ill.

Dear Sir:—

Replying to your letter of March 7th, our auditor sends you Mr. Winne each month a statement of all rentals of the character to which you refer. These rentals have nothing whatever to do with the proportion of the expense to be paid by your company. Our monthly bills against you for such expenses are made out in strict accord with our terminal contract. We have frequently in the past few years, explained

the matter to the various officials of your company in response to their inquiry.

Yours truly,

J. A. WAGNER,  
Superintendent.

1047

### Defendants' Exhibit 506.

December 13, 1905.

Mr. F. A. Delano,  
Pres't. Wabash R. R.  
Chicago, Illinois.

Dear Sir:—

The annual meeting of the Stock-holders and Directors of the Des Moines Union will occur on January 4th. You will recall that at our last meeting in Chicago it was decided that all Directors and Stockholders should be represented at this meeting, and in view of the fact that it takes the unanimous vote of all Stock-holders and Directors to transact business, I urge that at this annual meeting a full representation be had.

The Constructing Quartermaster at the Army Post writes me nearly every day respecting our proposed track and they are doing all they can to help us with the Department in Washington.

I have been to St. Paul and talked with Mr. A. B. Stickney and he is willing to use our new bridge and give us a crossing over his main line in South Des Moines, without installing an interlocker, and will pay us twenty-four hundred dollars a year rental for the use of our bridge. While this rental is, in our opinion, inadequate, yet I would be inclined to take this amount in case we are not able to induce them to pay us a larger rental.

I believe we should increase our Capital stock at the annual meeting, as suggested by Mr. McKenna, in order that we may be able to issue bonds or other evidence of indebtedness that will be legal. With the small amount of stock now out-  
1048 standing we cannot legally increase our indebtedness.

I am therefore pursuing our negotiations with the several industries in South Des Moines and am assuming that affirmative action will be taken on this at our annual meeting.

Inasmuch as Mr. F. M. Habbell desires to leave Des Moines as soon as this meeting is over, I trust that it may be had on the regular day and am writing you this long in advance in

hopes that the date will be convenient for all parties. Kindly acknowledge receipt, at your early convenience, advising me.

Yours truly,

(Signed) F. C. HUBBELL, Pres.

Copy to Mr. McKenna.

### Defendants' Exhibit 507.

1009

December 13, 1905.

Mr. E. W. McKenna,  
2nd Vice Pres. C. M. & St. P. Ry.  
Chicago, Illinois.

Dear Sir:—

The annual meeting of the Stock-holders and Directors of the Des Moines Union will occur on January 4th, 1906. You will recall that at our last meeting in Chicago, it was decided that all Directors and Stockholders should be represented at this meeting, and in view of the fact that it takes the unanimous vote of all stock-holders and Directors to transact business, I urge that at this annual meeting a full representation be had.

The Constructing Quartermaster at the Army Post writes me nearly every day respecting our proposed track and they are doing all they can to help us with the department in Washington.

I have been to St. Paul and talked with Mr. A. B. Stickney and he is willing to use our new bridge and give us a crossing over his main line in South Des Moines, without installing an interlocker, and will pay us twenty-four hundred dollars a year rental for the use of our bridge. While this rental is, in our opinion, inadequate, yet I would be inclined to take this amount in case we are not able to induce them to pay us a larger rental.

I believe we should increase our Capital Stock at the annual meeting, as suggested by you, in order that we may be able to issue bonds or other evidence of indebtedness that 1650 will be legal. With the small amount of stock now outstanding, we cannot legally increase our indebtedness.

I am therefore pursuing our negotiations with the several industries in South Des Moines and am assuming that affirmative action will be taken on this at our annual meeting.

Inasmuch as Mr. F. M. Hubbell desires to leave Des Moines as soon as this meeting is over, I trust that it may be had on the regular day and am writing you this long in advance in hopes that the date will be convenient for all parties. Kindly acknowledge receipt at your early convenience advising me.

Yours truly,

(Signed) F. C. HUBBELL, Pres.

(Copy to Mr. Delano.)

1051

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**Defendants' Exhibit 508.**

**Chicago, Milwaukee & St. Paul Railway Co.**

Secretary's Office.

Subject: Stock—Des Moines Union Ry. Co.

E. W. Adams, Secretary.

Milwaukee, January 4th, 1906.

Mr. H. D. Thompson,

Vice President, Des Moines Union Railway Company,  
Des Moines, Iowa.

Dear Sir:—

I enclose certificates of the Des Moines Union Railway Company, as follows:

No. 38, in name of A. J. Earling, . . . 1 share.

No. 39, in name of H. R. Williams, . . 1 share.

Mr. E. W. McKenna, our Second Vice President, informs me that he and Mr. W. J. Underwood will be elected tomorrow to represent our Company on the Board. Will you please issue new certificates to Mr. McKenna and Mr. Underwood in lieu of the ones enclosed, and return them to me?

Yours very truly,

(Signed) E. W. ADAMS, Secretary.

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1052

**Defendants' Exhibit 509.**

**The Wabash Railroad Company.**

The Wheeling & Lake Erie Railroad Co.

The Wabash Pittsburg Terminal Railway Co.

Office of the President

F. A. Delano, Western Union Building  
President. Chicago.

Geo. G. Yeomans,  
Ass't to the President.

December 3rd, 1906.

Mr. F. C. Hubbell,  
President, Des Moines Union Railway Co.,  
Des Moines, Ia.,

Dear Sir:—

Referring to the matter of the proposed Army Post track:

Our people are of the opinion that if this line is built, it should be done by the Des Moines Union Railway Company, and if the tenant companies advance the funds with which to build the line, the Des Moines Union Railway Company should issue its bonds to cover the cost, and turn them over to the tenant companies to reimburse them for the amounts so advanced.

We are strongly of the opinion that the cost of the line should not be paid for from the so called "Surplus Earnings Account".

Yours truly,

(Signed) F. A. DELANO.

1053

**Defendants' Exhibit 510.**

**The Wabash Railroad Company.**

General Officers.

E. B. Pryor, St. Louis, Mo., February 29th, 1908.  
Vice-President.

Mr. J. A. Wagner,  
Superintendent, Des Moines Union Ry. Co.,  
Des Moines, Ia.

Dear Sir:—

I have delayed answering your letter of February 7th, asking for renewal of the contract between the Wabash Railroad Company and the Des Moines Union Railway Company covering

the use of Wabash track from Des Moines to Ross Junction and Hastie, until I could hear from President Delano.

I am today in receipt of a letter from him to the effect that we will be willing to renew the contract for a period of five years on the basis of \$1.25 for each loaded car and 50 cents for each empty car.

If these terms are satisfactory, please advise me and I will have new contract prepared.

Yours very truly,

(Signed) E. B. PRYOR.

1054

**Defendants' Exhibit 511.**

**The Wabash Railroad Company.**

The Wheeling & Lake Erie Railroad Co.

The Wabash Pittsburg Terminal Railway Co.

F. A. Delano,      Office of the President,  
President.      Western Union Building  
Chicago.

Geo. G. Yeomans,  
Ass't to the President.

On the Line, March 20th, 1908.

Mr. J. A. Wagner,  
Superintendent, Des Moines Union Ry.,  
Des Moines, Iowa.

Dear Sir:

Referring to your visit at my office:

I find that there are important commercial considerations in reference to the trackage rate on Carbondale coal; and as I telegraphed you, I want to reconsider the proposition which we talked of.

The low trackage rate which we are giving you operates to enable you to make a very low commercial rate on this coal into Des Moines, and the coal comes in direct competition with coal from our mines at Tracey, Dunreath and other points, and demoralizes all the rates at Des Moines. We do not see why we should give a low trackage rate so as to enable you to demoralize our rate situation. If you will charge regular Iowa Distance Tariff rate from these mines, that will be satisfactory to us, and we will give you a trackage rate, say adjusted on a

1055 tonnage basis, which will give you a handsome profit. We would rather have a division of the rate than to have a trackage rate on a per car basis; but the thing that is important to us is getting the rate situation adjusted. It does not help us at all to make a little money out of trackage on this business, if by reason of it, we lose money on the handling of all coal going into the Des Moines market.

Yours very truly,

(Signed) F. A. DELANO.

L 17

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**Defendants' Exhibit 512.**

1056

St. Louis, April 6, 1908.

Mr. F. A. Delano,  
President, Chicago.

Dear Sir:

Yours of the 24th with copy of Mr. J. A. Wagner's letter of the first to you, in which he states that he is at a loss to understand wherein the \$5.00 switching rate which they make from the Smith Lowe Mines at Carbondale to Des Moines, can in any way affect the rate on commercial coal into Des Moines.

I think this \$5.00 has a material effect on our rates on coal for the C. M. & St. P. The Wabash and Des Moines (Union) are competitors for the C. M. & St. P. tonnage, and the Wabash rate was last year 32½ cents, 40 tons to the car, or \$13.00 per car. The Des Moines Union rate, 40 tons, \$5.00 per car; difference in favor of the Smith Lowe Co., of \$8.00 per car, this difference on tonnage from our mines to the C. M. & St. P. on 5,000 cars would amount to \$40,000.00.

Our operators claim to have lost about \$15,000.00 last year and have stated that we would either have to make them a lower rate or they would close the mines.

Our Operators also put in quite a lot of commercial tonnage at Des Moines on which they are obliged to make a very low price because of the low rate from the Smith Lowe Mines, and the local competition of the mines located in Des Moines.

As to the trade in Des Moines: I understand it costs about 60 cents per ton to haul from the mines to point of consumption, and we have no chance to compete against the wagon trade except to industries having side tracks, and in such cases, at distance tariff rate of, for five miles, 30 cents on lump and 25 cents on fine coal, we have an advantage over the wagon mine. I believe that the Des Moines can get the Iowa Distance Tariff rates for five miles, of 30 cents on lump and 25 cents on

fine coal, on all of their trade at Des Moines, and that therefore, they can afford to pay us a much better trackage rate than they have been paying and probably, at the same time, get more money out of the business themselves.

The C. R. I. & P. also have track connection with these mines, and I am informed that they make no less than the Iowa Distance Tariff rates from the mines into Des Moines.

Yours truly,

(Signed) D. O. IVES.

1057

**Defendants' Exhibit 513.**

**The Wabash Railroad Company.**

The Wheeling & Lake Erie Railroad Co.

The Wabash Pittsburg Terminal Railway Co.

Office of the President  
Western Union Building  
Chicago

F. A. Delano  
President

Geo. G. Yeomans  
Ass't to the President

April 18th, 1908.

Mr. J. A. Wagner,  
Superintendent, Des Moines Union Railway Co.,  
Des Moines, Iowa.

Dear Sir:—

Referring to yours of April 15th: As I said to you before, we are a good deal more concerned with the maintenance of our tariff rates in Iowa than we are with any revenue out of trackage, and rather than have our rates demoralized and held down by low switching charges which you are making, we would forego the revenue we are making out of trackage altogether.

I would suggest, however, that you put in regular Iowa Distance Tariff, namely thirty cents per ton on lump coal, and twenty-five cents per ton on fine coal; that you pay us one-third of the earnings on this business at a minimum of \$2.00 per loaded car, and make no charge for empty cars.

Yours very truly,

(Signed) F. A. DELANO.

1058

**Defendants' Exhibit 514.**  
**The Wabash Railroad Company.**

General Offices,

St. Louis, Mo., November 13th, 1908.

E. B. Pryor,  
 Vice-President.

Mr. F. C. Hubbell,  
 President, Des Moines Union Ry. Co.,  
 Des Moines, Ia.

Dear Sir:—

Referring to your letter of November 1st:

I have to advise you that the Wabash Railroad Company does not want to do anything to stop the development of the Des Moines property or prevent the locating of industries there, and we are perfectly willing to agree to the construction of the track to the Cement Plant, the expense of which is to be charged to Capital Account on the books of the Des Moines Union Company and provided for by some means other than the use of the surplus earnings, which we claim to belong to the tenant companies.

Very truly yours,

(Signed) E. B. PRYOR.

1059

**Defendants' Exhibit 515.**

July 19, 1895.

Mr. O. D. Ashley, President,  
 Wabash R. R. Co., 195 Broadway,  
 New York, N. Y.

Dear Sir,—

It was understood between us that you would obtain from Gen. Hubbard an opinion as to whether the Purchasing Committee was liable to Polk & Hubbell for the Committee's failure to carry out its contract with our late firm.

The particular objection was the Committee's failure to transfer  $\frac{1}{4}$  of the terminal property at Des Moines, free of encumbrance. If you have not obtained Gen. Hubbard's opinion, please do so at an early date and let me know what it is.

Yours truly,

(Signed) F. M. HUBBELL.

**Defendants' Exhibit 516.****The Wabash Railroad Company.**

General Solicitor's Office.

Wells H. Blodgett, Gen'l Solicitor.

St. Louis, Mo. Nov. 23, 1895.

W. A. Park, Esq.,

Atty., Des Moines, Iowa.

Dear Sir:—

An attachment suit was brought recently in the District Court of your city by the Des Moines Northern and Western Railway Company, and the Des Moines Union Railway Company vs. James F. Joy, O. D. Ashley, Thomas H. Hubbard and Edgar T. Welles, constituting the Wabash Purchasing Committee. The action is for breach of covenant contained in a certain contract under which the Purchasing Committee conveyed, or agreed to convey, to Polk & Hubbell, the Des Moines Northwestern Railroad and an interest in certain Des Moines terminal properties.

They claim that the committee contracted to give them a clear title, and that some of the property was incumbered. An attachment has been issued and levied on the interest of the Committee in the Des Moines & St. Louis railroad. The amount involved is between twenty-seven and twenty-eight hundred dollars. Mr. Cummins, who represents the plaintiffs, has said he would take no default for a few days, but the time will expire very soon, perhaps Monday.

I have written to New York for instructions concerning a settlement, but have received no reply, and it is necessary to have an answer in at once. Will you please take charge of the case and file an answer on Monday, or see Mr. Cummins and get the time for answering extended by stipulation. The Committee may think the proper thing to do, will be to make the plaintiff prove their case. They are trustees and may consider it their duty to do so. What I want is to prevent a default until I hear from them with respect to their wishes in the premises.

Wire me on Monday whether you receive this and will attend to the matter.

Very truly yours,

(Signed) WELLS H. BLODGETT.

1062

**Defendants' Exhibit 517.****The Wabash Railroad Company.**

General Solicitor's Office.

Wells H. Blodgett, Gen'l Solicitor.

St. Louis, Jan. 11, 1897.

W. A. Park, Esq.,

Atty., Des Moines, Iowa.

Dear Sir:—

I have been absent in the East for ten days, and only returned to my office this morning. On my table I find yours of the 8th, and in reply beg leave to say, that Mr. James F. Joy is dead, and I would think notice thereof should be given to the plaintiff. In regard to the questions involved in the litigation, I think the first one is the one you state concerning the title acquired by the plaintiffs in the contracts. Should that be held against us, then a question arises on the construction of the contracts themselves. I know that what the Purchasing Committee intended to convey free from all incumbrances, was the stock, and not the lots and real estate owned by the Company. That was certainly the understanding of every member of the Wabash Purchasing Committee throughout the negotiations and correspondence, and that is the point on which the Purchasing Committee have always relied for their defense, and that is a point in the case which they want fully presented, and on which they desire to take the opinion of the Court. I have not got the contract before me to-day, but will endeavor to examine it and write you more fully by to-morrow's mail.

Very truly yours,

WELLS H. BLODGETT.

1063

**Defendants' Exhibit 518.****The Wabash Railroad Company.**

General Solicitor's Office.

Wells H. Blodgett, Gen'l Solicitor.

St. Louis, Oct. 2nd, 1899.

Bailey, Ballrich &amp; Preston,

Attorneys,

Des Moines, Iowa.

Gentlemen:—

I am just home from my vacation, and find on my table yours of August 11th, reporting disposition made of case, Des

Moines, Northern and Western R. R. Company vs. James F. Joy, et al. You enclosed copy of entry you had prepared, making final disposition of the matter in the District Court. If that entry was made, you may send us an account for your services to date, or write us on the subject.

I also congratulate you upon your success, as I remember the disadvantage under which you took charge of the litigation.

Very truly yours,

(Signed) WELLS H. BLODGETT.

1064

**Defendants' Exhibit 519.**

In the District Court of Iowa, in and for  
Polk County.

Des Moines, Northern & Western Railroad Company and Des  
Moines Union Railway Company,  
#7614. vs. Law.  
James F. Joy, O. D. Ashley, Thos. F. Hubbard and Edgar T.  
Welles.

Petition Filed Oct. 1, 1895.

The plaintiffs for cause of action state;

That they are corporations existing under the laws of the State of Iowa, having their principal places of business at Des Moines, in the County of Polk in said State. That the defendants are a Purchasing Committee associated together prior to the year 1886 for the purpose of purchasing various railroad properties to be sold under foreclosure of certain mortgages executed by the Wabash, St. Louis & Pacific Railway Company.

That prior to the year 1885 the Des Moines Northwestern Railway Company had executed a mortgage upon its property, which consisted of a line of railway extending from Farnham street in the City of Des Moines, Iowa, to Fonda in the county of Pocahontas in said State to secure the payment of certain railway bonds issued by the said Wabash, St. Louis & Pacific Railway Company, and had also executed a lease of its said property for a long term of years to the said Wabash, St. Louis & Pacific Railway Company. That at the same time  
1065 what is known as the "terminals" in Des Moines, consisting of the property of the Des Moines Union Railway Company, as it now is known, which had been then constructed, and which was a part of a railway known as the Des Moines & St. Louis Railway, extending from Farnham street in the said City of Des Moines to Albia in the County of Monroe and State

of Iowa, had been mortgaged by the said Des Moines & St. Louis Railway Company to secure railway bonds issued by the said Wabash, St. Louis & Pacific Railway Company.

The plaintiffs further state that prior to the 9th day of October 1886, suits to foreclose the mortgages which had so been executed upon the property of the Des Moines Northwestern Railway Company and upon the terminal property, being a part of the property of the Des Moines & St. Louis Railway Company, and the said properties were about to be sold at said foreclosure sale, the proceedings therefor being then pending in the Circuit Court of the United States, in and for the Southern District of Iowa, Central Division. That thereupon the said defendants, acting under the name and style of the "Purchasing Committee" of the Wabash, St. Louis & Pacific Railway Company, entered into negotiations with a certain co-partnership then doing business in the City of Des Moines, Polk County, Iowa, known as Polk & Hubbell, and composed of F. M. Hubbell and J. S. Polk, looking to the sale by the said defendants to the said Polk & Hubbell of a one-fourth interest in said terminal property and the entire property of the Des Moines Northwestern Railway Company. As a conclusion to said negotiations the said Polk & Hubbell on

the 9th day of October, 1886, made to the defendants a 1066 written proposition, a copy of which is hereto attached, marked Exhibit "A" and made a part hereof; and thereafter, on the 9th day of October, 1886, three of said defendants, to-wit: O. D. Ashley, Thos. H. Hubbard and Edgar T. Welles, accepted the said proposition in and by a written communication, a copy of which is hereto attached, marked Exhibit "B" and made a part hereof. That thereafter, and on the 10th day of September, 1887, the said Polk & Hubbell and all of the defendants entered into a certain supplementary written agreement touching the same subject-matter, a copy of which is hereto attached, marked Exhibit "C" and made a part hereof.

The plaintiffs further state, that pursuant to said written agreement so entered into the said Polk & Hubbell purchased and entered into possession of the said property formerly belonging to the Des Moines Northwestern Railway Company, and, as agreed upon between themselves and the said defendants, a railway corporation known as the Des Moines & Northwestern Railway Company was organized, to which corporation all the rights and interests acquired by the said Polk & Hubbell in and by their said contract with the defendants were transferred and set over and the said company being so organized, took possession of the said property lying between Farnham street and Fonda, issued its bonds as provided in

said agreement, and for a long time operated said property. That after the said purchase was completed as aforesaid, it was mutually agreed between the said Polk & Huddell, the

Des Moines & Northwestern Railway Company and the 1067 defendants that what was known as the "terminal"

property, that is to say, so much of the property formerly belonging to the Des Moines & St. Louis Railway Company as lay between Farnham Street in the City of Des Moines upon the west and twenty-second street in the City of Des Moines upon the east, should be held and owned by a separate corporation; and thereupon, and during the year 1887, the whole of said property was conveyed to the Des Moines Union Railway Company, a corporation which had theretofore been organized, and the said Des Moines & Northwestern Railway Company received the one-fourth interest in the said terminal property mentioned in the said contract by the delivery to it of one-fourth of the mortgage bonds issued by the said Des Moines Union Railway Company, and one-fourth of its capital stock.

The plaintiffs further state, that among other properties, there was conveyed and transferred to the said Des Moines Union Railway Company under the said agreement lot seven (7), block fifteen (15), in the original town of Fort Des Moines. That at the time the said conveyance and transfer was so made there was a mortgage upon said property, which mortgage had been a lien thereon prior to the time of the acquisition of the lot for railway purposes, in the sum of Four Thousand Dollars (\$4,000.00) which mortgage the Des Moines Union Railway Company on or about the first day of January, 1894, was compelled to pay. That the total amount paid by the said Des Moines Union Railway Company in payment and satisfaction of the said mortgage, which was at the time of the

1068 said agreement a lien upon the said property, was Eleven Thousand Nine Hundred Seventy-four and 84/100 dollars (\$11,974.84).

The plaintiffs further show that a certain right of way being a part of said terminal property upon which the railway was then being operated, through lots fifty-three (53) and fifty-four (54), Brooks & Co's Addition to the City of Des Moines, was found not to have been acquired, and the said Des Moines Union Railway Company was compelled to acquire the same at a cost to it of Seven Hundred and sixty-six Dollars (\$766.00), that being the lowest sum for which the same could be obtained.

The plaintiffs further state, that the said Des Moines Union Railway Company has been compelled to pay rent for a cer-

tain switch known as the distillery switch, with interest, amounting to Fourteen Hundred Eighty-five and 88/100 Dollars (\$1485.88). That said switch was a part of the property operated by the terminal company, and should have been free of any lien or incumbrance.

The plaintiffs further state, that of the above named payments the Des Moines & Northwestern Railway Company or its assigns has been compelled to pay the sum of Twenty-seven Hundred Eighty-one and 68/100 Dollars (\$2781.68) which, if the said terminal property had been free and clear of incumbrance, would not have been required to be paid.

The plaintiffs further state, that the Des Moines, Northern & Western Railroad Company, one of the plaintiffs herein, is now the owner of all the rights, interest, claims and demands hereinbefore set forth arising in favor of the said Des Moines & Northwestern Railway Company.

1069 Plaintiffs further state, that the defendants are non-residents and each of them is a non-resident of the State of Iowa.

Wherefore plaintiffs demand judgment against the defendants in the sum of twenty-seven Hundred Eighty-one and 68/100 Dollars (\$2781.68), with interest from ..... and costs of suit.

They further pray that a writ of attachment may issue against the lands and tenements, goods and chattels, rights and credits of the defendants.

CUMMINS & WRIGHT,  
Attys. for Plff.

State of Iowa,  
Polk County—ss.

F. M. Hubbell being first duly sworn, upon his oath says, that he is the President of the Des Moines, Northern & Western Railroad Company; that he has read the foregoing petition, and verily believes the statements therein contained are true.

F. M. HUBBELL,

Subscribed and sworn to before me this 30th day of September, 1895.

(Seal)

J. P. HEWITT,  
Notary Public, Polk County, Iowa.

1070

**Exhibit "A"**

New York, October 9, 1886

To the Purchasing Committee  
of the Wabash, St. Louis & Pacific Ry. Co.

Gentlemen:—

We make the following proposition in regard to the Des Moines Northwestern Railway: The mortgage to be foreclosed to cover all advances made by the Wabash Company to the D. M. N. W. Ry. Co. A good and perfect title free from all liens and incumbrances (including all claims the Receivers may have against it) to be made to Polk & Hubbell for said railway (and all its property, rights, franchises, all its interest in the equipment), and a one-fourth interest in the terminal property at Des Moines and 5037 shares of stock in the D. M. N. W. Ry. Co.

Upon the delivery of the property above named in the condition as to title as above specified, Polk & Hubbell are to pay the Committee a \$450,000 first mortgage 5% bond. The issue to be only \$450,000, and to be secured by a first mortgage on the property conveyed, to-wit: on that part of said railway lying between Farnham street in Des Moines and the town of Fonda and equipment. To run two years from the time the title is delivered to Polk and Hubbell, and to be redeemable at their option at any time before maturity upon payment of principal and accrued interest, and if paid within one 1071 year from the time the title is delivered to Polk and Hubbell, then \$450,000 cash shall discharge said mortgage and debt. Polk and Hubbell to have all the stock of the new company. As soon as the contract is completed Polk and Hubbell are to make arrangements to standard gauge the road. If accepted, the details and plan of carrying out the above is to be agreed upon and embodied in a contract to be signed by the necessary parties.

POLK & HUBBELL.

1072

**Exhibit "B"**

New York, October 9, 1886

The foregoing proposition is satisfactory to us, and we agree as a Committee acting under the contract of July 15th, 1885, between ourselves and certain bondholders, to take all measures in our power to have the same fully performed.

(Signed) O. D. ASHLEY,  
THOS. H. HUBBARD,  
EDGAR T. WELLES.

1073 This Memorandum of Agreement made and entered into to this 10th day of September, A. D. 1887, by and between Messrs. Polk & Hubbard, parties of the first part, and James F. Joy, Ossian D. Ashley, Thomas H. Hubbard and Edgar T. Welles, as a Purchasing Committee under contract of July 15th, 1885, parties of the second part, Witnesseth:

That whereas, under date of October 9th, 1886, the parties to this agreement entered into a certain conditional contract for the foreclosure and sale of the Des Moines Northwestern Railway, as shown by copy of proposition of the first party hereto and acceptance of the second party hereto, attached to this agreement and made part hereof;

And Whereas, in pursuance of said contract said foreclosure and sale is to take place as provided in said agreement, and said parties of the first part expect and intend to become purchasers at said sale;

Now Therefore, it is further agreed between the parties above named, as follows:

1st. For the purpose of enabling Messrs. Polk & Hubbard to bid in the Des Moines Northwestern Railway at the foreclosure sale above referred to, the Committee will furnish to said Polk & Hubbard the general mortgage bonds required to make payment of said bid, so far as the same may be required and can be used in that way; the cash payment required by the decree shall be advanced by Messrs. Polk & Hubbard  
1074 and credited upon the purchase price of the property above mentioned.

2nd. A decree of foreclosure and sale shall be entered as soon as possible after the first day of the next term of the Circuit Court of the United States for the Southern District, Central Division of Iowa. Messrs. Polk & Hubbard will see that the amount of the cash payment is made as small as possible, and to that end will negotiate for a reduction of the Master's fees and other costs, so far as the same can be obtained. The day of sale shall, moreover, be made as soon as possible.

3rd. The requirement of the agreement hereto annexed, for the delivery to the Committee by Messrs. Polk & Hubbard of a bond for \$450,000, shall be satisfied by the delivery of such bond secured by first mortgage as provided in proposition of October 9th, 1886, executed by a new corporation organized for that purpose, and holding the property disposed of at such sale.

4th. As soon as practicable after the signing of this stipulation the Des Moines Northwestern Railway shall be turned

over to Messrs. Polk & Hubbell, and thenceforth regarded as having been transferred under the contract hereto annexed.

5th. Simultaneously with the execution and delivery of said bond the Committee will convey to Messrs. Polk & Hubbell, or their assignees, the one-fourth interest in the terminal property at Des Moines, and will transfer also 5037 shares of stock of the Des Moines Northwestern Railway Company, and also all the interest of the parties of the second part in the equipment of said Des Moines Northwestern Railway. It is hereby understood that the rolling stock of the New 1075 York & Pacific Car Trust Association is not included in this agreement.

Simultaneously with the conveyance above mentioned of one-fourth interest in the terminal property at Des Moines, the same shall be mortgaged back to the Purchasing Committee for the further security of the said \$450,000. In case, however, the terminal property at Des Moines shall be merged in a terminal company either before or after the transfer of one-fourth interest as above, the bonds and stock received from the Terminal Company in exchange for said one-fourth interest shall be transferred in lieu of the property to Messrs. Polk & Hubbell, or their assignees, or transferred by them to the Committee, to be held by the Committee as a further security for the payment of the \$450,000, above mentioned.

6th. The transfer of the bonds mentioned in paragraph one of this agreement, to Messrs. Polk & Hubbell, and the execution and delivery of the bond and mortgage mentioned in paragraph three, shall be consummated, if possible on the same date as the delivery of the Master's deed to Messrs. Polk & Hubbell, or their assignees; said mortgage being recognized as a purchase money mortgage.

POLK & HUBBELL.

Purchasing Committee: JAMES F. JOY,  
O. D. ASHLEY,  
THOS. H. HUBBARD,  
EDGAR T. WELLES.

1076 State of Iowa,  
Polk County—ss.

F. M. Hubbell being first duly sworn, upon his oath says, that he is the President of the Des Moines, Northern & Western Railway Company, one of the defendants in the above suit. That the defendants are non-residents of the State of Iowa, and that each of them is a non-resident of said State, and that personal service of the original notice herein cannot

be made upon the said defendants, or either of them with-  
in this State.

F. M. HUBBELL.

Subscribed and sworn to by the said F. M. Hubbell this  
day of September.

(Seal)

J. P. HEWITT,

Notary Public, Polk County Iowa.

The plaintiffs elect to have the original notice herein pub-  
lished in the Des Moines Leader, a newspaper published in the  
City of Des Moines, Polk County, Iowa.

CUMMINS & WRIGHT,  
Attys. for Plff.

Let the publication be made as requested.

J. G. JORDAN, Clerk.

By Edwin Hutt, Deputy.

1077

**Defendants' Exhibit 520.**

In the District Court of Iowa, in and for Polk  
County.

Des Moines Northern & Western :

R. R. Co., et al., Plaintiff, :

vs. :

James F. Joy, et al., :

Defendants. :

Amendment to Petition.

Filed Dec. 23, 1896.

Comes now the plaintiff, the Des Moines Northern & West-  
ern Railroad Company, and in response to the motion to make  
its petition more specific filed herein January 26th, 1896, avers  
that the Des Moines & Northwestern Railway Company ac-  
quired the interest of the said Polk & Hubbell in the said con-  
tract with the defendants in the following manner: At the  
time the said contract was made with the said defendants it  
was agreed by and between the membership of the firm of  
Polk & Hubbell that all the rights and property acquired by  
them under and by virtue of the said contract with the Pur-  
chasing Committee should be assigned and conveyed to a cor-  
poration to be organized known as the Des Moines & North-

western Railway Company, and if said agreement had been carried out the one-fourth interest in the said terminal property set forth in the original petition would have been so conveyed and transferred to the Des Moines & Northwestern Railway Company. That before the said agreement was  
1078 executed it was modified as follows, to-wit: That an independant corporation known as the Des Moines Union Railway Company should be organized, which should become the owner of the said terminal property, and that in lieu of the undivided interest in the said terminal property which was to be so conveyed by the said Polk & Hubbell to the said Des Moines & Northwestern Railway Company the said Des Moines & Northwestern Railway Company should have and receive one fourth of the capital stock of the said Des Moines Union Railway Company. That in pursuance of such modified agreement the Des Moines & Northwestern Railway Company was organized, and received a conveyance of all said property except the terminal property, and the Des Moines Union Railway Company was organized, and issued to the Des Moines & Northwestern Railway Company upon the verbal order of the said Polk & Hubbell one-fourth of its capital stock; and thereupon the said Polk & Hubbell verbally assigned and transferred, in addition to the said one-fourth of the capital stock of the Des Moines Union Railway Company, all the rights and interests which they had acquired in or pertaining to the said terminal property from the defendants, and under the contract set forth in the original petition; and in that manner the said Des Moines Northwestern Railway Company became the owner of the cause of action which is herein set out.

Answering the second requirement of the said motion, the said plaintiff says that in December, 1891, the Des Moines & Northwestern Railway Company, pursuant to the statutes of  
Iowa, consolidated all its rights, properties, privileges,  
1079 franchises, cause of action and stock with a corporation known as the Des Moines & Northern Railway Company, and the said consolidated company issued its bonds in an amount not necessary to herein state, and secured the same by a mortgage upon all its property, including the one-fourth of the capital stock of the Des Moines Union Railway Company, and including the said cause of action against the defendants. That thereafter the said mortgage was foreclosed in the Circuit Court of the United States for the Southern District of Iowa, Central Division, and all the property embraced in the said mortgage, including the cause of action herein was sold at public sale under an execution in the said foreclosure proceedings. That at such sale the said property, including the said cause of action, was purchased by a Purchasing Committee

composed of G. M. Dodge, F. M. Hubbell and F. C. Hubbell. That thereafter the present plaintiff, being a corporation known as the Des Moines Northern & Western Railroad Company, was organized in accordance with the laws of the State of Iowa, and the said Purchasing Committee sold, assigned and transferred to the plaintiff by a written instrument all the property that it had acquired at the said foreclosure sale; and thus

(Signed) CUMMINS, HEWITT & WRIGHT,  
Attys. for Plaintiff.

this plaintiff became the owner of the cause of action set forth in the petition arising out of the contract with the defendants.

Answering the third of the requirements of said motion, the said plaintiff respectfully shows that it is fully answered in the foregoing answers to the first and second requirements.

1080 State of Iowa,  
Polk County—ss.

F. C. Hubbell being first duly sworn, upon his oath says that he is the Superintendent of the Des Moines, Northern & Western Railroad Company; that he has read the foregoing amendment to the petition and verily believes the statements therein contained are true.

(Signed) F. C. HUBBELL.

Subscribed and sworn to before me this 21st day of December,  
1896.

(Signed) CRAIG T. WRIGHT,  
Notary Public, Polk County, Iowa.

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1081 **Defendants' Exhibit 521.**

In the District Court of Iowa in and for Polk County.

Des Moines, Northern & Western	:	
Railroad Company, et al.,	:	
		#7614 Law
Plaintiffs,	:	
vs.	:	
James F. Joy, et al.,	:	
		Answer.
Defendants,	:	

Come now defendants, O. D. Ashley, Thomas F. Hubbard and Edgar T. Welles, and for answer to the plaintiffs' petition as amended, say:

That said defendant James F. Joy, died prior to January, 1897.

That they admit that the plaintiffs are corporations organized under the laws of Iowa, and having their principal place of business at Des Moines, Iowa.

That they admit that defendants are non-residents of the state of Iowa.

That they admit that these defendants with said James F. Joy were constituted a "Purchasing Committee" under a contract dated July 15, 1885, between themselves and certain bondholders of Wabash, St. Louis & Pacific Railway Company, but deny that their powers and duties are correctly or fully set forth in the petition.

That they admit that these defendants with said James F. Joy in their capacity as a "Purchasing Committee", as defined in said contract appointing them and not otherwise, did on or about the 10th day of September, 1887, enter into certain written agreements with Polk and Hubbell for the sale of certain stock and bonds of the Des Moines Northwestern Railway Company, and certain stock and bonds of the Des Moines Union Railway Company. That whether the copies Exhibits "A", "B" and "C" are true copies of said written agreements, or of them, these defendants have neither knowledge or information sufficient to form a belief.

That they deny that they intended to, or did, or were, by said Polk & Hubbell, understood to agree to warrant the title of said terminal property, or to incur either personally, or as a "Purchasing Committee" or on behalf of their principals, liability whatever in respect to defects in title or incumbrances upon said terminal property.

That they deny that they are either personally or as a "Purchasing Committee", or on behalf of their principals, liable or indebted to plaintiff in the sum of \$2781.68, or in any other sum or amount, whatever.

That they deny that plaintiffs are, or ever were the owners of the claims sued on.

That they deny each and every allegation in the petition not herein admitted.

Wherefore, defendants demand judgment for costs.

BAILY & BALLEWICH,  
Attorneys for defendants.

**Defendants' Exhibit 522.**

1083

In the District Court of the State of Iowa in and  
for Polk County.

Des Moines Northern & Western	:
Railroad Company,	:
vs.	:
James F. Joy, O. G. Ashley, Thos.	:
F. Hubbard and Edgar T.	:
Wells.	:

Defendants are a purchasing committee of the bondholders of the old Wabash System, and as such bought in the property covered by the mortgage securing the payment of said bonds. Under date of October 9, 1886, Polk & Hubbell made to said Committee a proposition relating to one piece of the property formerly embraced in the Wabash system, and covered by the mortgage thereon. The following is a copy of so much of said proposition as is material to the present issue:

"New York, Oct. 9, 1886.

To the Purchasing Committee of the Wabash, St. Louis & Pacific Ry. Co.

Gentlemen:—We make the following proposition in regard to the Des Moines Northwestern Railway. The mortgage to be foreclosed to cover all advances made by the Wabash Company to the D. M. N. W. Ry. Co. A good and perfect title free from all liens and incumbrances (including all claims the Receivers may have against it) to be made to Polk & Hubbell for said Railway (and all its property, rights, franchises, all its interest in the equipment) and a one-fourth interest in the terminal property at Des Moines and 5037 shares of 1084 stock in the D. M. N. W. Ry. Co. Upon the delivery of the property above named in the condition as to title as above specified, Polk & Hubbell are to pay the committee a \$450,000 first mortgage five per cent bonds."

This proposition was accepted by the committee and its terms were afterwards carried out in so far as the conveyance of the property and the payment therefor is concerned. Polk & Hubbell claim to have assigned and transferred all that they acquired by said transaction to the plaintiff. Since the conveyance by the committee, it has developed that upon one piece of the property included in what is in the proposition termed the "Terminal property," there was a mortgage, one-fourth of which plaintiff has paid, and it seeks to recover the money thus paid with interest.

It is insisted by defendants, that they did not undertake to convey the one-fourth interest in the terminal property free and clear of all liens, that that undertaking applied to the D. M. N. W. Ry. Why it should apply to that property, and not to the other, is not apparent on the face of the proposition. It is certain that Polk & Hubbell were contracting for some property without liens or incumbrances. The language is "A good and perfect title free from all liens and incumbrances \* \* \* to be made to Polk & Hubbell for said railway \* \* \* and a one-fourth interest in the terminal property." It is argued that the use of the "interest" indicates that Polk & Hubbell were to take the property as it stood. Ordinarily the word "interest" is used to indicate less than the whole of a thing. If I say I own a half interest in a farm, it cannot be reasonably contended that I have claimed to own one-half of  
 1085 it, subject to incumbrances. Indeed, it seems to me, that such a construction of the word would be both unnatural and unreasonable. If, however, there can be any doubt as to the correctness of this construction of the clause of the proposition under consideration, when it is considered in connection with what follows, there can be none. The next clause of the contract, it will be noticed provides that "upon the delivery of the property above named in the condition as to title as above specified, Polk & Hubbell are to pay", etc. What was the property above named? Certainly the one-fourth interest in the terminal property was a part of it. If this be true, then beyond all question the title to that property was to be delivered as above provided, to-wit, "free and clear from all incumbrances." I conclude that the "terminal property" equally with the property designated as the D. M. N. W. Ry. "was to be free of liens and incumbrances."

## II

Defendants insist, that plaintiff has not shown, that it is the owner of whatever rights Polk & Hubbell acquired in the "terminal property" under their contract with the purchasing committee, and that it has not shown a right to maintain an action thereunder.

Before proceeding to a consideration of the evidence upon this question, it may be premised that the Des Moines Union Ry. Co. is a corporation organized by the parties interested  
 1086 in the terminal property, for the purpose of taking, holding and operating that property.

Mr. Hubbell of the firm of Polk & Hubbell was a witness upon the hearing of this cause, and no witness contro-

verted any statement made by him. His testimony upon this question was as follows:

Polk & Hubbell obtained from the purchasing committee a contract for the purchase of the railway, and the terminal property, and in some way they turned their rights under the contract over to the new railway company that was organized. I think that was by an oral transaction. The rights that Polk & Hubbell obtained in all the property, whether the terminal or the railroad, was assigned and transferred by Polk & Hubbell to the Des Moines & Northwestern Ry. Co. I do not remember how it was done. We did not consider it was our individual property. As soon as the company was organized everything we had obtained from the purchasing committee was passed over to the railroad company. (Q) You may state whether the one-fourth of the bonds of the Des Moines Union Ry. Co. were issued to the Des Moines & Northwestern Railroad Company at the order of Polk & Hubbell and with their consent and knowledge? (A) They were. The bonds were issued to the purchasing committee, and when the purchasing committee essayed to comply with the contract to give to Polk & Hubbell or their assignees its shares in the Des Moines Union, it was done by the purchasing committee giving to the Des Moines & Northwestern Ry. Co. 112 Des Moines Union bonds \* \* \* and when the stock of the Des Moines Union Ry. Co. was issued one-fourth of it was issued to the Des Moines & Northwestern Ry. Co. and it has been held by that company or its successors until the present and has been voted by that company.

From the first that quarter interest in the stock of the Des Moines Union Ry. Co. has always been recognized by everybody who had any connection with the company whatever, as the property of the Des Moines & Northwestern Ry. Co. and the firm of Polk & Hubbell either in writing or otherwise transferred to the Des Moines Northwestern Ry. Co. the one-fourth interest in the terminal property. The purchasing committee and its members knew that the Des Moines & Northwestern Ry. Co. was holding one-fourth interest in the bonds of the Des Moines Union Ry. and a one-fourth interest in its stock, as the one-fourth interest in the terminal property which they agreed to sell and deliver to Polk & Hubbell. The Des Moines & Northwestern Ry. Co. paid the entire purchase price of the property by Polk & Hubbell bought of the purchasing committee."

The foregoing leaves no room to doubt that the Des Moines & Northwestern Ry. Co. acquired all the rights of Polk & Hubbell under the contract with the purchasing committee. That corporation executed a mortgage to the Metropolitan Trust

Co. to secure the payment of certain bonds issued by it, which mortgage covered among other property "a one-fourth interest in the capital stock of the Des Moines Union Ry. Co. This mortgage was foreclosed and upon sale thereunder Messrs. G. M. Dodge, F. M. Hubbell and F. C. Hubbell as a purchasing committee bought in the entire property, including said interest in the capital stock of the Des Moines Union Ry. Co. Thereafter the plaintiff company was organized and the Messrs. Dodge & Hubbell conveyed to it all the property by them purchased under the foreclosure sale.

What did it take under such conveyance? Certainly a one-fourth interest in the Capital Stock of the Des Moines Union Railway Company, and nothing more. The Des Moines Northwestern Railway Company doubtless had a right of action against the defendants under the terms of the contract entered into by them with Polk & Hubbell, but such right of action was not included in the mortgage to Metropolitan Trust Co. and did not pass under the foreclosure thereof.

A judgment must be entered against plaintiff for costs.

1089

### Defendants' Exhibit 523.

In the District Court of Iowa in and for Polk County.

Des Moines, Northern & Western	:	
	:	
Railroad Company, Plaintiff,	:	
	:	
vs,	:	
	:	#7614. Law.
	:	
	:	Judgment.
	:	
James F. Joy, et al., Defendants.	:	

This cause was heretofore tried to the court without a jury, the plaintiff appearing by Cammins, Hewitt & Wright, its attorneys, and the defendants appearing by Baily, Ballerich & Preston, their attorneys. The court having heard the evidence and arguments of counsel took the case under advisement.

And now, to-wit, on this 5th day of August, 1899 this cause came on for decision and judgment. The court being fully advised in the premises finds for the defendant and against the plaintiff.

It is therefore ordered and adjudged that plaintiff's cause of action be and it is denied and this action dismissed on the

merits; that the attachment be discharged and the attached property released therefrom, and that defendants have and recover from plaintiff, Des Moines Northern and Western Railroad Company, the costs of this action as taxed by the clerk, and that execution issue therefor.

1090

**Defendants' Exhibit 523a.**

Whereas since the execution of the terminal agreement to which this is appended as a supplement, the Des Moines & Northern Railway Company, has become the owner of the railway extending from Des Moines, Iowa, to Boone, Iowa, formerly owned by the St. Louis, Des Moines & Northern Railway Company, and has become substituted in said contract in the stead of the said St. Louis, Des Moines & Northern Railway Company,

Whereas the said Des Moines & Northern Railway Company has entered into a trackage contract with the owner of the line of railroad, extending from Des Moines, Iowa, southeasterly to Harvey, Iowa, known as the Des Moines & St. Louis Railroad, and

Whereas the said Des Moines & Northern Railway Company expects to transport coal over said Des Moines & St. Louis Railroad, through Des Moines to points upon the line of the Des Moines & Northern Railway, and to points upon the connections of said last named company, using in the passage of trains through Des Moines, the tracks of the Des Moines Union Railway Company, and

Whereas it is believed that for such traffic, (which is understood to be the movement of coal trains directly through the said City of Des Moines, without switching or handling, and their operation by the engines and crews of the said Des Moines & Northern Railway Company), there should be a different method of computing wheelage, in order to ascertain the amount which should be apportioned to the said Des Moines & Northern Railway Company, of the expense of the terminal property.

It Is Therefore Now Agreed by and between all the parties to said contract, of which this is a supplement, as follows to-wit:

That in making the apportionment and division of the cost and expense provided in said contract to be made, all coal trains and cars loaded upon the line of said Des Moines & St. Louis Railroad, moved by the engines of the said Des Moines & Northern Railway Company, and passing through Des

Moines Northward, and for all empty coal trains or coal cars destined to points on the line of the Des Moines & St. Louis Railroad, for the purpose of taking on loads of coal wheelage shall be computed as follows:

1st. Upon all such coal cars and coal trains, whether loaded or empty, but one wheelage for each trip shall be reckoned for their passage over the said tracks of the Des Moines Union Railway Company, that is to say, one wheelage for the loaded cars or trains going northward, and one wheelage for the empty cars or trains going southward.

2nd. The wheelage of the said Des Moines & Northern Railway Company, reckoned as above, for such coal cars and trains and empty coal cars and trains, shall not share in all the costs and expense of said terminal property as provided in said contract to which this is a supplement, but such wheelage shall be limited to the following items of 1092 expense, namely:

(a) To one third of the yearly interest upon the bonds of said Des Moines Union Railway Company, and one third of the taxes; but if bonds shall be issued for the purpose of building a new passenger depot, they shall be excluded.

(b) To the entire expense of the road department, in which it is understood there is to be included the salaries of train dispatches and crossing watchmen. It is agreed that the renewal of bridges and the proposed extension of the tracks to connect with the Des Moines & Kansas City Railroad, shall not, for the purpose of this contract, be considered as falling within the meaning of the phrase "road department."

It is, however, further agreed that the cost of keeping the bridge over the Des Moines River in repair shall, as long as the same is used, be taken as a part of the expense of the "road department"; and if during the continuance of this contract a new bridge is built over said river, to take the place of the one now in use, although the traffic herein provided for is not to bear any part of the expense of the new bridge, nevertheless, there shall be thereafter, during the continuance of this contract, be added each month to the expense of the road department, for the purpose of computing wheelage on said traffic, a sum which shall be equal to the average monthly expense of keeping said bridge in repair after the execution of this contract, and before said new bridge is built.

1093 3rd. In the items of expense mentioned in the preceding paragraph, the wheelage of the said Des Moines & Northern Railway Company above described, and reckoned as above provided, shall share with the other users of said

property, and the amount thus found to be due shall be billed to the Des Moines & Northern Railway Company, and paid by it as provided in said original contract.

4th. This contract shall continue and be in force for the period of eighteen months from and after its execution, and at the end of said period shall cease and determine.

In Witness Whereof the several corporations, parties hereto, have caused their corporate names to be hereunto signed by their duly authorized officers, and their respective seals to be hereto attached, with due attestation by their respective secretaries, this 15th. day of May, 1890.

(Seal)

DES MOINES UNION RAILWAY  
COMPANY,

Attest:

F. M. Hubbell,  
Secretary.

By G. M. Dodge, President.

(Seal)

DES MOINES & ST. LOUIS RAIL-  
ROAD COMPANY,

Attest:

F. M. Hubbell,  
Secretary.

James F. How, President.

(Seal)

DES MOINES & NORTHWEST-  
ERN RAILWAY,

Attest:

A. N. Denman,  
Secretary.

By F. M. Hubbell, President.

(Seal)

DES MOINES & NORTHERN  
RAILWAY COMPANY,

Attest:

L. M. Martin,  
Asst. Sec'y.

By A. B. Cummins, V. President.

1094

#### Defendants' Exhibit 524.

This Agreement, Made and entered into this second day of June, 1890, by and between the Des Moines Union Railway Company, a corporation organized under the laws of the State of Iowa, and having its principal place of business at Des Moines, Iowa, party of the first part and the Chicago, St. Paul & Kansas City Railway Company, a corporation organized under the laws of the State of Iowa, party of the second part, Witnesseth; that

Whereas, the said party of the first part is the owner of valuable terminal facilities in the City of Des Moines, Iowa, consisting of main and side tracks, freight and passenger depots, depot grounds, lands, yards, shops, round houses, transfers, and other property connected with the operation of railways extending from the eastern boundary line of said city to Farham Street in the western part thereof, and

Whereas the party of the second part is the owner of and operates a line of railway extending to, from and through the said City of Des Moines, and

Whereas, said second party is desirous of obtaining the right to use said terminals or a portion thereof in connection with its said line of railway, and

Whereas, it is understood that the Des Moines & St. Louis Railroad Company, the Des Moines & Northwestern Railway Company and the Des Moines & Northern Railway Company have by contract acquired the right to use said terminals,

1025 Now Therefore, in consideration of the premises and the mutual covenants and agreements hereinafter contained, it is agreed by and between the parties hereto as follows, to wit;

Section One:—

That the party of the first part grants to the party of the second part the use (in common with such railway companies as heretofore have, or may hereafter enter into contract with the party of the first part) of its terminal property aforesaid, including tracks, passenger and freight depots, round houses, shops, buildings and structures and all betterments, renewals, improvements of and additions to the same for the term of three years from and after the first day of June, 1890; and thereafter until the same shall be terminated by one year's written notice by either of the parties hereto, but such notice shall not be given until after the expiration of said period of three years; but such use shall at all times be subject to the reasonable regulation and control of the party of the first part, which shall at all times manage and operate said terminal property in the interest and for the benefit of such railway companies as may acquire the right to use the same; and said first party agrees to keep and maintain its said terminal property in good condition and repair and to provide and maintain all such engines, machinery, appliances, buildings and structures, and all such servants and employees as shall be reasonably necessary for the conduct of its business and the moving and handling of cars, passenger and freight.

1026 of said second party and the housing and care of its engines; and said first party further agrees to switch all cars, handle all freight, house and care for all engines of said second party which may be delivered to it or which may come upon its said terminal property, in so far as said second party may request it so to do; and said first party further agrees that the use hereby granted shall be without preference or unreasonable precedence for or to itself or any of the lessees of said terminals in the manner of train time,

schedules or the handling or switching of cars and trains and occupancy of depots or the occupancy of said property or any part thereof or in the service herein agreed to be performed, always however, subject to such reasonable control and discretion by the party of the first part as may be necessary to avoid confusion and expedite the management of the business of the party of the first part.

Section Two:—

The party of the second part agrees to pay to the party of the first part monthly, a sum of money to be ascertained as follows to-wit:

1st:—There shall be ascertained the amount required to pay five per cent upon the mortgage bonds of the party of the first part, one twelfth of which shall be payable monthly as hereinafter specified.

2nd:—At the expiration of each month, or as soon thereafter as practicable, there shall be ascertained the expenses of maintaining the property of the party of the first part including the renewal, maintenance and repair of tracks, depots, round houses, engine houses, etc., during the preceding month, not exceeding original cost of construction, and in like manner there shall be ascertained the taxes, general or special, levied upon or against said property and paid during the preceding month, or to be paid during the next succeeding month, and the insurance, if any, paid during the preceding month, or to be paid during the next succeeding month.

3rd:—There shall be likewise ascertained the costs and expenses of every nature, connected with the operation of said terminal station, freight and passenger depots, depot grounds, tracks, round houses, transfers and other properties which is to include every item of expense or disbursement reasonably incurred or made by the party of the first part not heretofore mentioned except the expense specified in section four hereof.

Section three:—

Having so ascertained the monthly aggregate of all the items and sums mentioned in the preceding section, the party of the second part shall pay to the party of the first part, that proportion thereof that the wheelage of the party of the second part bears to the entire wheelage of all the railway companies using said terminal facilities, during such preceding month; and it is expressly agreed and understood that in computing wheelage three narrow gauge cars shall be taken as the equivalent of two standard gauge cars, and that the term wheelage as used in this contract means that three narrow

guage cars are to be accepted as the equivalent of two standard guage cars; and it is further expressly agreed and understood that in computing the wheelage of the party of 1098 the second part, its through passenger trains which pass from its main line east of the Des Moines River to the depot, of the party of the first part, and are returned to said main line over the same track to proceed to their destination shall for each trip be reckoned as though they had come but once upon the said terminal property.

#### Section Four;—

The costs and expenses of operating the engine houses and their appurtenances and each of them, including the cost of turning and housing engines, furnishing water and sand, and of wiping, washing and firing up, shall be divided, and the party of the second part shall pay such proportion thereof as the number of road engines of the party of the second part in and out of said engine house shall bear to the whole number of road engines in and out thereof during the period for which said costs and expenses are made up. All repairs to engines of the party of the second part shall be paid for on the basis of the actual cost of labor and material. And all services rendered and supplies and labor furnished to the party of the second part for its own benefit and which is not properly a portion of the joint expenses of said terminals shall be charged directly to and paid by said party of the second part on such equitable terms as may be agreed upon between the superintendent of the party of the first part and the superintendent of the party of the second part.

#### Section Five;—

The party of the first part shall on or before the 10th 1099 day of each month or as soon thereafter as practicable, make up and present to the party of the second part an account showing the amount due hereunder for the preceding month, and payment thereof shall be made within fifteen days thereafter.

#### Section Six;—

It is further agreed between the parties hereto that if the party of the second part shall, for any reason, fail or refuse for a period of sixty days after the same is due and the said account rendered as aforesaid, to pay the several sums as provided in this contract to be paid, then the party of the first part may take from any moneys in its hands or in the hands of its agents the amount so due and apply sufficient thereof to meet the demands, and if the sum so taken be insufficient to

pay the amount due under this agreement and the same shall still remain unpaid, said first party shall have the right to forfeit cancel and annul this contract, but it is expressly understood and agreed that nothing herein contained shall prevent the party of the first part from enforcing its said demands against the party of the second part by any proper action at law or in equity or from recovering the amount which may be at any time due and unpaid if it shall so elect.

Section Seven:—

The management of the terminal property shall be in charge of a superintendent, appointed by the party of the first part, and it is agreed that neither his compensation nor that of other agents and employes shall be higher than is ordinarily paid by railroad companies in the vicinity for similar services.

Section Eight:—

Said terminals shall be used by the party of the second part for all its regular passenger trains, destined to departing from or passing through said City of Des Moines, and shall be used by all the freight cars of said second party, carrying freight to or from said City of Des Moines, except such freight as may be destined to and from industries on the line of second party's railway.

Section Nine:—

The party of the first part shall keep accurate books of account showing in detail all the expenditures made by it on account of the various items of interest, insurance, taxes, renewals, improvements, operation, maintenance, repairs and other disbursements embraced in this agreement upon and about said premises, so that the parties hereto at all times may be enabled to make accurate settlement of their accounts as provided in this agreement, and said books may at all reasonable and proper hours be examined and inspected by the superintendent, auditor, treasurer or authorized accountant of said second party.

Section Ten:—

The said party of the first part shall also keep an accurate record of all cars and engines of each railway company using said terminals and arriving at or departing from said terminal station, grounds, transfer and yards, and the cars of foreign roads that may be switched upon or from said terminals for the benefit of any railway occupying said terminal property, and of all the engines which have been

housed at said engine houses in each month and as hereinbefore provided said first party shall furnish to the second party hereto, a full, true and detailed statement of all the expenditures made of all the fuel and other supplies used, of all the cars and engines received, handled or switched, of all the work done or repairs made, and of all the engines housed and other expenses connected with the operation of said property during the month next preceding.

Section Eleven:—

All damages which may be received by engines or cars while being switched by the party of the first part at or upon any part of the said terminal property, shall be repaired by the party of the first part, and the cost of such repairs shall be borne and paid as a part of the expenses of the operation of said terminal property and divided upon a wheelage basis as herein defined.

Section Twelve:—

All damages to property caused by any engine or engines, car or cars of the railroad companies occupying said terminals while being switched, managed, controlled, or under the management and control of the party of the first part, or by any imperfection in the track or tracks laid on said premises, and all injuries which may at any time be received by any person or persons in, around, about, or upon said terminal station, depot grounds, tracks, yards, round houses, transfers &c., caused through or by the party of the first part or any of its agents, officers or servants, shall if settled at all be adjusted and settled by said first party, and the sums thus paid in settlement or settlements shall be considered as a part of the expenses of operating said terminals and shall be divided and paid upon said wheelage basis as herein defined; provided, however, that the party of the second part and each railway company using said terminal facilities, shall at its own cost and expense bear, settle and pay all damages to property belonging to the parties hereto, or to third parties, and all injuries to persons, when said damages or injuries are done to or by its own trains while said trains are being moved by its own engines and are being operated and controlled by its own crews unless such damages or injuries are occasioned by the act, neglect, or fault of the servants of said first party or by some imperfection in its track or tracks; and in case such damages or injuries are so occasioned by the act, negligence or fault of the servants of the said first party, or by any imperfection in its said tracks, then settlements and payments shall be made by said first party and shall be considered

as a part of the expenses of operation of said terminals and shall be divided and paid upon the basis of wheelage as herein defined.

Section Thirteen :—

It is further expressly agreed that the party of the second part shall not be required to share in the interest upon  
1103 bonds of party of first part in excess of five hundred thousand dollars, except that if party of first part builds a new passenger station or depot, party of second part will share from the time the same is ready for occupancy, in the interest of bonds issued to pay for the same, not exceeding the sum of one hundred and twenty-five thousand dollars, additional to said five hundred thousand dollars; provided, further, that no bonds shall be issued or sold for purposes other than enlarging, bettering or improving said terminal property or the payment of some expense connected therewith.

Section Fourteen :—

All matters of difference between the parties hereto which may arise from time to time under the provisions of this contract shall be settled by arbitration—each party selecting one disinterested person; and in case the parties so selected fail  
to agree, they shall select a third party, and the decision of the majority of the arbitrators shall be final and binding on both parties hereto. And it is further agreed that the arbitrators herein provided for shall be selected within thirty days from date of written notice from one party to the other of a desire to have a matter arbitrated; and in case either party fail or refuse to select one arbitrator on its behalf within thirty days from date on which notice in writing, has been given, then the party desiring the arbitration shall select two disinterested persons, and if they can not agree, they shall select a third. The decision of the majority of the arbitrators, so selected, shall be binding; and in case the arbitrators fail to agree, or  
fail to choose a third party, or fail to render a decision  
1104 within thirty days from the date on which the matter at issue has been submitted to them in writing there shall be a new board of arbitration selected as herein provided for; and this shall be done from time to time and as often as may be desired by either party hereto, until a decision is rendered. All matters at issue to be arbitrated shall be submitted to the arbitrators in writing.

Provided however, that such arbitration and difference shall have no effect upon or interrupt the course of business at said

terminal station, grounds, yards, &c., until the final decision of said arbitrators, but such business shall continue to be transacted, settlements and payments as herein provided for shall be made as before until the matter in dispute shall be adjusted by said arbitrators, and thereupon such payments or restitutions shall be made as said arbitrators shall by their decision determine to be just and in accordance with justice and fair dealing under this contract.

In Witness Whereof the respective parties hereto have caused their corporate seals to be hereunto affixed, and these presents to be signed and attested by their secretaries respectively, the day and year first above written.

(Seal)

THE DES MOINES UNION RAIL-  
WAY COMPANY,

By F. M. Hubbell, & A. B. Cummins, Committee.

Attest:

F. M. Hubbell,  
Secretary.

1105

CHICAGO, ST. PAUL & KANSAS  
CITY RAILWAY COMPANY,

By A. B. Stickney,  
President.

Attest:

John L. Pratt,  
Asst. Secretary.

1106

### **Defendants' Exhibit 525.**

Des Moines, May 14, 1894.

The within contract is hereby extended from and after June 1st, 1894, until the expiration of three months' notice by either party of the desire to terminate the same. Except that the first paragraph of Section two (2) shall be modified so as to read as follows:

There shall be ascertained the amount necessary to pay five 5%, per cent interest upon \$569,000 mortgage bonds of the party of the first part, and eight per cent 8%, interest on \$50,775 of floating debt, one-twelfth of which shall be payable monthly as hereinafter specified.

And the further modification that if the first party during the continuance of this contract, shall admit Companies not now using said leased property, the monthly payments made by said company, or Companies, shall be deducted from the amount payable by the present lessees, and the remainder shall

## THE DES MOINES UNION RY. CO., ET AL.

be apportioned and paid by the present lessees on the basis of wheelage, as heretofore.

## DES MOINES UNION RAILWAY CO.

By F. C. Hubbell,

Attest,

F. M. Hubbell

Sec'y.

President.

L. M. Martin

Executive Com-  
mittee.

Chas. M. Hays,

Vice Pres't &

Gen'l Manager,

Wabash Railroad Company.

## CHICAGO GREAT WESTERN RY. CO.

By A. B. Stickney,

President.

1107

**Defendants' Exhibit 526.****Contract and Lease.**

Des Moines Union Railway Company,  
Des Moines, Iowa,  
to the  
Chicago, Great Western Railway Company,  
St. Paul, Minn.

1108

**Lease.**

This Agreement, Made and entered into this 2d day of July, 1896, by and between The Des Moines Union Railway Company, a corporation organized and existing under the laws of the State of Iowa, and having its principal place of business at Des Moines, Iowa, hereinafter called "The Des Moines Company" and The Chicago Great Western Railway Company, a corporation organized and existing under the laws of the State of Illinois, hereinafter called "The Chicago Company," Witnesseth, That

Whereas, The Des Moines Company is the owner of valuable terminal facilities in the City of Des Moines, Iowa, consisting of main and side tracks, freight and passenger depots, depot grounds, lands, yards, shops, round houses, transfers, and other property connected with the operation of railways, and

Whereas, The Chicago Company is the owner of and operates a line of railway extending from Kansas City, Kansas, through the city of Des Moines, Iowa, to St. Paul and Minneapolis in the State of Minnesota, and Chicago in the State of Illinois, and

Whereas, The Chicago Company is desirous of obtaining the right to use in a manner and under the conditions hereinafter set forth, a portion of said terminal property in connection with its said line of railway, and

Whereas, It is understood that the Des Moines & St. Louis Railroad Company (being now operated by the Wabash Railroad Company) and the Des Moines Northern & Western Railroad Company have acquired the right to use said terminals, and that it is the purpose and intent of The Des Moines Company to admit other railway companies to the use of said terminals upon such terms as to it may seem just, not, however, in conflict with the provisions hereof.

Now Therefore, In consideration of the premises and the mutual covenants and agreements hereinafter contained, it is agreed by and between The Des Moines Company and The Chicago Company, parties hereto, as follows, to-wit:

§ 1. The Des Moines Company agrees to maintain its present connection with the track of the Des Moines & Kansas City Railway Company at a point a short distance north of the Raccoon River.

§ 2. The Des Moines Company grants, subject to the conditions hereinafter provided, and for the term of twenty-five years from and after the date hereof, to The Chicago Company, the use in common, with such railway companies, and in all other respects under the same terms and conditions, as heretofore have or may hereafter acquire the right to use said terminals, of a single main track from the point of connection with the Des Moines & Kansas City Railway Company hereinbefore described, through the City of Des Moines to the existing connection with the main track of The Chicago Company in East Des Moines.

It is further agreed that so much of the main track so above described as lies west of West Seventh Street in the City of Des Moines, and east of the point where the said main track diverges to the south in order to make the connection with the Des Moines & Kansas City Railway, shall be laid with its center line not farther north than seven and one-half feet from the south line of the east and west alley between Cherry and Vine Streets.

It is further agreed that whenever the business shall require it, The Des Moines Company shall lay a second main track between said connection with the track of The Chicago Company in East Des Moines and the point of connection with the Des Moines & Kansas City Railway which said second main track between West Seventh Street and the point

of divergence toward the south shall be laid with its center line fifteen feet north of said first main track. When so constructed it shall be included within this lease as above provided for the first main track.

The Des Moines Company further grants, subject to the conditions herein provided, and for a like term, to The Chicago Company, the use, in common, and in all other respects under the same terms and conditions, with such railway companies as heretofore have or may hereafter acquire the right to use said terminals, of all main, spur and side tracks, bridges, turn outs, and cross-overs now owned and operated by The Des Moines Company, lying east and south of the aforesaid connection between the main line of The Des Moines Company and the main line of The Chicago Company in East Des Moines, as well as the right to reach the same from the main line of The Des Moines Company. Also the side tracks, branch and spur tracks now owned and operated by The Des Moines Company leading into the track running southward toward the Raccoon River, and which are south of the Chicago, Rock Island & Pacific Railway. Provided, The Des Moines Company shall have the right to take up or change its main tracks, side tracks, branch and spur tracks, or the use thereof, if by so doing the business is not materially impeded.

The Des Moines Company further grants, under the conditions herein provided, and for a like term, to The Chicago Company, the use in common, with such other railroad companies as heretofore have or may hereafter acquire the right to use said terminals, of a proper and suitable track lying west of the connection in Block Eighteen (18), H. M. Hoxie's Addition to Des Moines, for a distance of one thousand feet; such use on the part of The Chicago Company to be for the purpose of switching into and upon the exclusive tracks of The Chicago Company hereinafter described. Also the use in common as aforesaid and in all other respects under the same terms and conditions of all tracks connecting the line of The Des Moines Company with the lines of other railway companies in Des Moines, and used for the purpose of interchanging cars.

1112 It is further provided that the said second main track shall be constructed at once from the center of Block Four (4), in the original town of Fort Des Moines, westward to the point of divergence in Block Eighteen (18), H. M. Hoxie's Addition to Des Moines, and The Chicago Company shall have the exclusive right to use the same until the business done upon the terminals demands its use as a second main line; and The Des Moines Company shall have the sole

right to determine when such demand exists. Provided, that until such necessity arises, The Des Moines Company may upon days of unusual traffic exclude The Chicago Company from said second main line, and if it shall desire so to do, it shall give to the said Chicago Company twenty-four hours notice of its desire to use the same.

§ 3. The Des Moines Company further grants, under the conditions herein provided, and for a like term, and subject to the same terms and conditions except as herein expressly modified, to The Chicago Company, the use in common, with such railway companies as heretofore have or may hereafter acquire the right to use the same, of all the passenger stations on the main lines herein leased, including platforms, platform tracks, and baggage rooms, as now or hereafter constructed, upon the terminal property of The Des Moines Company. Said use shall include the right to receive and discharge passengers and baggage, the right to receive and discharge express matter, the use of the passenger station or stations by passengers, and the services of the necessary baggage

1113 men and ticket agents, but shall not extend beyond the ordinary use of a station for passenger traffic. The Des Moines Company agrees that it will, within two years from the date hereof, build a new passenger station sufficient to accommodate the needs of the companies using such terminals, the cost of which, within the above limitations, shall be determined by The Des Moines Company. It is expressly understood and agreed that the entire revenue which may be derived from the use of any such station or stations by news stands, parcel rooms, telegraph and telephone offices, dining rooms, lunch rooms, barber shops, express and transfer offices, or any other offices, and all other uses, shall belong exclusively to The Des Moines Company.

§ 4. The Des Moines Company, subject to the conditions herein provided, and for a like term of twenty-five years, grants to The Chicago Company the exclusive use of the following real property, viz: Lot Three (3) in Block Fourteen (14), except so much thereof as lies north and seven and one-half feet distant from the center line of the north team track; also so much of Lot Six (6) in Block Fourteen (14) as lies south of the line drawn from the southwest corner thereof to a point on the east line thereof forty feet north of the southeast corner of said lot, and Lots Three (3) and Six (6) in Block Nine (9), except so much from all of said lots, or parts of lots, as may be necessary for the second main track hereinbefore described; also Lots Four (4) and Five (5) in Block Nine (9) except that The Des Moines Company shall have

the right whenever it may elect, to build, use and operate a track across the northwest corner of said Lot Five (5) connecting with the said north track at the west side of Ninth Street and running on a suitable line for the purpose of crossing Cherry Street and reaching property on the north side of said street; and the right of joint use of the lead track from said western side of Ninth Street to the main track at Tenth Street, to switch to and from above described track. All of said above described real estate being in H. M. Hoxie's Addition to Fort Des Moines; also Lots One (1), Two (2), Seven (7) and Eight (8), in Block Four (4) in the Original Town of Fort Des Moines, except so much of said Lots Two (2) and Seven (7) as may be necessary for the said second main track hereinbefore described.

The Des Moines Company hereby reserves any of the real estate now owned by it and unoccupied by tracks not herein expressly leased to The Chicago Company for the purpose of building an exclusive switching yard for its own use, or the use of its present or future railroad tenants; and also reserves the right to acquire additional real estate for that purpose.

§ 5. The Des Moines Company agrees to construct as soon as practicable, two team tracks across Lot Three (3) in Block Fourteen (14), and Lots Three (3) and Six (6) in Block Nine (9), H. M. Hoxie's Addition to Des Moines, and Lots Two (2) and Seven (7) in Block Four (4) in the Original Town of Fort Des Moines, the center line of the southerly  
 1115 of said tracks to be fifteen feet distant from the center line of the aforesaid second main track, and the center line of the northerly of said team tracks to be twenty-nine feet north of the center line of the other. The Des Moines Company further agrees to pave the roadway between the said team tracks either with brick or granite, and if it elects to pave with granite, The Chicago Company agrees to haul the granite necessary for the construction of said pavement from St. Paul or Minneapolis to Des Moines free of charge. The Des Moines Company further agrees to connect the said two team tracks with the said main lines.

The Des Moines Company further agrees that The Chicago Company may build, according to such plans as it may adopt, a freight house upon Lots One (1) or Eight (8), or both, in said Block Four (4), Original Town of Fort Des Moines, and that when the same is constructed it will pay to The Chicago Company twelve thousand five hundred dollars (\$12,500) of the cost thereof, and The Chicago Company agrees to bear all the expense of the construction of said freight house over and above the said sum of twelve thousand five hundred

dollars (\$12,500). The Chicago Company agrees that it will maintain at its own expense the said freight house and keep the same in as good condition as when built, ordinary wear and tear excepted. It further agrees to keep the same fully insured in good and responsible companies, and if a loss occurs thereunder the insurance shall be used in rebuilding the said freight house. The Chicago Company further agrees that if such freight house be burned or otherwise destroyed 1116 it will rebuild the same at its own expense, and such new building shall be of at least equal cost with the one so destroyed.

The Chicago Company hereby assents to the vacation of west Sixth Street and waives all claims for damages by reason of such vacation, this assent to become effective whenever desired by The Des Moines Company.

§ 6. The Des Moines Company grants, under the conditions herein provided, to The Chicago Company, and for a like term of twenty-five years, the exclusive right to use the tracks to be constructed under the provisions of the last preceding section, save and except that it is agreed between the parties hereto that there shall be a joint use of the connection and north team track in Lots Three (3) and Six (6), Block Fourteen (14), H. M. Hoxie's Addition to the City of Des Moines, for the purpose of reaching a spur track running through the west half of Lot Five (5), Block Nine (9), H. M. Hoxie's Addition to the City of Des Moines, as provided for in Section Four hereof.

The Des Moines Company further grants under the conditions herein provided, to The Chicago Company, for a like term of years, the exclusive use of all the property now owned by it between the Des Moines River and the Chicago & Northwestern connection, and seven and one-half feet north of the present main tracks of The Des Moines Company.

§ 7. The Des Moines Company agrees that it will, upon request, switch the cars of The Chicago Company in, 1117 upon and from all its switches or side tracks, except regular team and freight house tracks situated between West Fifth St. and the aforesaid connection between the main lines of the two companies in East Des Moines, at one dollar and fifty cents (\$1.50) per car, provided, that this provision shall not embrace side tracks and switches hereafter constructed by The Des Moines Company, unless the Chicago Company elects to have the benefits of the same under this agreement. The Chicago Company agrees that it will upon request switch the cars of The Des Moines Company and its present tenant companies to and from private industries lo-

ented on the switches laid upon the property hereby exclusively leased to The Chicago Company, or extensions thereof, at one dollar and fifty cents (\$1.50) per car, and further agrees that it will switch for The Des Moines Company and its present tenant companies, cars from the south side of the Racoon River loaded with brick or coal at two dollars (\$2.00) per car.

§ 8. The Des Moines Company covenants and agrees with The Chicago Company to maintain in proper condition for railway purposes all the tracks and appurtenances hereby leased, except the freight house to be built by The Chicago Company.

§ 9. The Chicago Company, in consideration of the grants and provisions hereof, agrees to pay to The Des Moines Company in the manner and at the times hereinafter specified, the following sums, to-wit:

1118 1st. An annual rental of twelve thousand dollars (\$12,000) to be paid in monthly installments in advance upon the first day of each and every month during the said term, in gold coin of the United States of America of or equal to the present standard of weight and fineness.

2d. The sum of two thousand seven hundred and seventy-six dollars (\$2,776) annually, payable monthly as hereinafter provided, which sum shall be in lieu of any and every contribution of The Chicago Company toward the general expense of The Des Moines Company, provided, however, that The Chicago Company agrees to pay The Des Moines Company whenever ascertained, one-third of the actual expense including attorneys' fees and costs, of bringing or defending any proceedings at law, or in equity before any court or other legal commission or tribunal, the decision of which would affect expenditures of The Des Moines Company.

3d. One-third of the actual cost and expense to The Des Moines Company during the term aforesaid, of all flagmen, gatemen, policemen, switch tenders, and of repairing, maintaining, renewing, changing and replacing all the existing railway tracks, bridges, and appurtenances (except buildings and general expenses of The Des Moines Company) and all tracks, bridges and appurtenances hereafter constructed and brought within the operation of this lease, and personal injuries to employees while engaged in the track department, or injuries to persons or property growing out of the conducting of the track department.

1119 4th. One-third the interest at current rates on long time loans by solvent railway companies, not exceeding

as such one-third, two per centum per annum, upon the actual cost of constructing such changes in or protections or conveniences to the public or modifications of said tracks, bridges and appurtenances (except buildings) as may be required by municipal, legislative or other legal action, or which may be deemed necessary for the most economical or convenient use of said tracks and other appurtenances except buildings; such payments to be made monthly in advance in the gold coin of the United States of America of or equal to the present standard of weight and fineness.

5th. One-third of all taxes or assessments, special or otherwise, and public charges of every kind and nature that shall or may be taxed or assessed against The Des Moines Company or its property during the aforesaid term of years.

6th. One-third of the interest of five per centum per annum upon the cost of any passenger station or stations that may be hereafter constructed by The Des Moines Company, including the cost of tracks, and appurtenances constructed, or additional real estate acquired for the same; provided, that in no event shall The Chicago Company be required to pay under this item more than fifteen hundred dollars (\$1,500) per annum, such payments to be made monthly in advance in the gold coin of the United States of or equal to the present standard of weight and fineness.

7th. One-third of any amounts paid by The Des Moines Company for personal injuries, loss or damage to property, including expenses incident thereto, and one-third of the actual cost and expense of The Des Moines Company during the term of this lease in operating, repairing, maintaining and renewing the passenger station or stations now existing, or hereafter constructed, except general expenses, while said station or stations are occupied by not more than three tenant railway companies, but if more than three tenant railway companies shall occupy said stations, then one-half of the total amount paid by such additional companies for the use thereof, either as rental or as a proportion of operating expenses, or both, shall be deducted each month from the total cost of the maintenance and operation of said passenger station and The Chicago Company shall pay one-third of the remainder.

§ 10. The Des Moines Company shall keep accurate books of account showing in detail all the expenditures made by it on account of the various items of interest, insurance, taxes, renewals, changes, operation, maintenance, repairs, and other disbursements embraced in this agreement upon and about said premises, so that the parties hereto may at all times

be able to make accurate settlement of the accounts as provided herein, and said books may at all reasonable and proper hours be examined and inspected by the Superintendent, Auditor, Treasurer, or other authorized accountant of said Chicago Company. The Des Moines Company shall on or before the 10th day of each month, or as soon thereafter

1121 as practicable, make up and present to The Chicago Company an account showing the amount due hereunder for the preceding month, and payment thereof shall be made within fifteen days thereafter at the office of The Des Moines Company in the City of Des Moines, save and except with respect to the items numbered first, fourth and sixth of Section Nine, which payments shall be made monthly in advance as heretofore provided. All claimed omissions or errors in said accounts, or exceptions thereto, which may be taken by The Chicago Company, shall be subsequently adjusted between the parties, but shall not delay the prompt payment of the accounts as rendered by The Des Moines Company.

§ 11. In the event that The Des Moines Company shall hereafter construct any additional tracks for the purpose of reaching any private industry or public warehouse, other than a railway freight depot, notice shall be given to The Chicago Company in writing of such construction, and if The Chicago Company desires that such additional tracks be included under the terms of this lease, it shall have the right to so include the same by giving notice in writing of such election, addressed to the President of The Des Moines Company at Des Moines, Iowa, within ninety days after notice is so given by The Des Moines Company. The right acquired with respect to such additional tracks, if The Chicago Company elects to acquire any rights in the same, if located between West Tenth Street and the junction of the main lines in East

1122 Des Moines, shall be to have its cars switched thereon at one dollar and fifty cents (\$1.50) per loaded car, but if located south and east of the junction of the main lines in East Des Moines or east of the line of The Des Moines Company and south of the Chicago, Rock Island & Pacific Railway in West Des Moines, the right shall be a common use as heretofore described. The Chicago Company shall pay monthly in advance in the gold coin of the United States of or equal to the present standard of weight and fineness, for such additional tracks so brought within the provisions of this lease, an additional rental of two per centum per annum on the cost of the same, including the real estate which it may become necessary to acquire in order to provide for such construction.

§ 12. The Des Moines Company hereby covenants and agrees to obtain an insurance policy or policies in good responsible

fire insurance companies, covering any passenger stations now existing or hereafter constructed, the premiums paid upon such insurance to be charged against the parties hereto upon the same basis as hereinbefore set forth for the operation and maintenance of said station or stations, and keep such policies renewed from time to time during the life of this indenture, and in case of partial or total loss by fire, the proceeds realized from such policy or policies shall be applied by The Des Moines Company in repairing, renewing or replacing the structure or structures so partially or wholly destroyed and in the event that the amount realized from the insurance is not sufficient to renew or replace the structure, the shortage shall be charged as an expense of said passenger station.

§ 13. The Des Moines Company hereby covenants and agrees that each and all the ticket agents from time to time employed in the passenger stations for the sale of tickets for said Des Moines Company and the tenant companies, shall before they enter upon their duties as such, give an indemnifying bond for their faithfulness in service, or shall be covered by a policy from a Guaranty Company in good standing, and such indemnifying bond or insurance policies shall be renewed from time to time as occasion may require during the life of this indenture. The premiums or expenses relating thereto borne by The Des Moines Company shall form part of the operating expenses of the passenger station, and in the event of any loss or defalcation occurring the money or moneys collected or received from such bond of indemnity or insurance policies shall be apportioned by The Des Moines Company among the several companies in proportion to the loss sustained by each. A compliance with the above provision shall relieve The Des Moines Company of all liability from any such loss or defalcation.

It is further provided that The Des Moines Company shall not continue in its employment any employe connected with the joint occupation of the property, who, for good reasons shown by The Chicago Company, is objectionable to said company, but the right of determining the fitness of any such employe to remain in his position shall be with The Des Moines Company.

§ 14. It is mutually agreed that all time cards, rules, regulations, and orders for the movement and operation of trains, cars and engines, and for the beneficial enjoyment of the property, the joint, concurrent or common use of which is embraced in this lease, shall be made and promulgated from time to time by The Des Moines Company, and the movement of trains, cars and engines, upon said property shall be un-

der the immediate direction of the Superintendent or other proper officer or agent of The Des Moines Company, but such time cards, rules, regulations and orders shall be reasonable, just and fair to all parties using said property, without preference or discrimination in favor of or against either, but passenger trains of all kinds shall have the right of way and precedence over all other trains and kinds of business upon said property, and The Des Moines Company shall have the general control, management and supervision over the property owned and controlled by it which may be used in common with other railway companies, and the right to enforce proper discipline of employes of The Chicago Company using any of the tracks or property of The Des Moines Company, in common with any of the other railway companies now, or hereafter, using said tracks or property, and in the event The Chicago Company fails or refuses to enforce against any of its employes the penalties prescribed by The Des Moines Company, The Des Moines Company shall have absolute  
1125 right to bar said employes from the tracks and property of The Des Moines Company, which are used jointly.

§ 15. The Chicago Company hereby covenants and agrees that it will not, during the term of this lease, use any part of the main track or tracks for switching purposes, further than shall be reasonably necessary to set in and take out cars to and from side tracks in the ordinary course of business, nor do such switching in a manner which shall delay or hinder the passenger or freight trains, or unnecessarily delay the switching crews, of any or either of the parties hereto, or any other companies heretofore or hereafter granted the right to use said facilities by The Des Moines Company or its assigns.

§ 16. It is understood and agreed that the use hereby granted by The Des Moines Company to The Chicago Company, is solely for the business of The Chicago Company destined to, or from or passing through Des Moines, and does not include the right on part of The Chicago Company to switch any car or cars, save in loading or unloading its own freight, and in making up its own trains. The right of switching for hire is expressly reserved to The Des Moines Company.

§ 17. It is understood and agreed that The Chicago Company shall not assign or sublet either or all the rights and  
privileges hereby granted, or enter into any contract  
1126 with any other railroad company by which the latter is given any right whatsoever to use any part of the said terminal property. Nor shall the said Chicago Company have the right to do the business of any other railroad

company over the said terminal property or any part thereof by effecting a junction between the line or lines of The Chicago Company and any such other railroad company, at or near the City of Des Moines. This section, however, shall not be construed to prevent the transfer of this lease to the successor, assignee or grantee of The Chicago Company, which shall by such succession, assignment or grant become the owner or operator of the line of railway now owned and operated by The Chicago Company, provided, that in no event shall any company owning or operating any of the railway lines now in Des Moines become entitled to any of the rights and privileges herein granted.

§ 18. The Chicago Company as lessee, hereby covenants and agrees that it will, and it does hereby assume all risk of and all liabilities for injury and damage to persons or to its own property, or to the property of third parties, caused by its trains, cars or locomotives operated by its crews over the railway tracks or bridges covered by this indenture, or caused by any officers, agents or servants employed in the management, running or operating of its trains, cars or locomotives in any manner whatever, or caused by the officers, agents or servants of the grantor and lessor in charge of any interlocking systems, bridges, gates, switches, turn tables or other appliances or devices in any manner whatsoever connected with the operation of the leased property, and in any manner having to do with the management, starting, moving, running or operating of the trains, cars or locomotives of said Chicago Company, or caused by the making or giving of the time cards, rules, regulations, signals and orders, in any manner having to do with the management, starting, moving, running or operating of said trains, cars or locomotives of said Chicago Company, and shall and will during the continuance of this lease save and keep harmless the grantor and lessor from all claims, demands, loss or damage on account thereof. And the Chicago Company as lessee, hereby further covenants and agrees that it will and hereby does assume all risk and all liability for injury or damage to persons, or to its own property, or to property of third parties, caused by its trains, cars or locomotives, by reason of or growing out of defects in the right of way, roadbed, track or tracks, bridges or culverts, or insufficiency of the fences or lack of fences along the right of way of the railway and tracks covered by this indenture, or the failure to erect or build sign boards or gates, or cattle guards or other protections at highway or street crossings in compliance with law, or the failure to erect interlocking systems or other safety appliances at railway crossings, connections or intersections, or the erection or construction of fences, sign boards,

gates, cattle guards, interlocking systems, or other safety appliances or protections which do not fully conform to law, and it shall and will during the continuance of this lease save and keep harmless the grantor and lessor from 1128 all claims, demands, loss or damage on account thereof, but if the grantor and lessor shall fail to repair defects in the tracks or bridges within a reasonable time after notice in writing so to do, specifying such defects, or shall fail to build or erect such fences, sign boards, gates, cattle guards, interlocking systems or other safety appliances as may be required by law, or to repair the same, if needing repairs, within a reasonable time after notice in writing so to do, specifying the places where such fences, sign boards, gates, cattle guards, interlocking systems or other safety appliances should be erected or repairs thereon are needed, or the changes necessary to make the same conform to the requirements of law, the grantee and lessee may repair such defects in the track or bridges and erect such fences, sign boards, gates, cattle guards, interlocking systems or other safety appliances, or repair the same, or change the same so as to conform to law, at the cost and expense of the grantor and lessor, subject to the provisions herein contained as to the divisions of the cost and expense of maintenance, renewal and repairs.

And The Chicago Company as lessee, hereby further covenants and agrees that in case any action or actions, suit or suits shall be commenced by any party or parties against the grantor and lessor growing out of any such damage or injury as aforesaid, said grantor may give written notice of the same to the lessee and thereafter the lessee shall attend to the defense of the same and save and hold harmless said lessor from all expenses, counsel fees, costs, liabilities, disbursements, recoveries, judgments and executions in any manner 1129 growing out of, pertaining to or connected therewith.

All damages caused by either of the parties to the property of the other by the negligence of officers, agents, servants, or employes shall be borne and paid by the party whose officers, agents, servants, or employes negligently cause such damage, except as hereinbefore provided.

It is further agreed that if damage is caused to the property owned by or in the possession of either party, or to the employes of either party, or to passengers carried by either party, by the joint negligence of the officers, agents, servants or employes of both, such damage shall be borne and paid by the party whose property or employe is so damaged, or who is in the possession of the property and carrying the passenger so damaged, except as hereinbefore provided.

In the event of a recovery in any suit brought for such damage against the other, the party liable hereunder shall make reimbursement, including all costs, attorneys' fees and expenses, but the party so liable hereunder shall have the right, and it shall be his duty upon notice, to conduct the defense to any such suit, and it shall be bound by any judgment rendered therein.

§ 19. It is agreed that all the covenants and agreements herein contained shall be binding upon the respective parties hereto, their successors and assigns, and all the grants herein contained shall run to The Chicago Company, its  
1130 successors and assigns, but this shall not be construed as authorizing The Chicago Company to sublet any of the privileges hereby conveyed it to another railway company except as hereinbefore provided.

§ 20. It is further agreed between the parties hereto that if The Chicago Company shall for any reason fail or refuse for a period of sixty days after the same is due and the said account rendered as aforesaid, to pay the several sums as provided in this contract to be paid, then The Des Moines Company may take from any moneys in its hands or in the hands of its agents, the amount so due, and apply sufficient thereof to meet the demands, with interest thereon at seven per centum from due date, and if the sums so taken be insufficient to pay the amount due under the agreement, and the same shall still remain unpaid, said Des Moines Company shall have the right to forfeit, cancel and annul this contract, but it is expressly understood and agreed that nothing herein contained shall prevent The Des Moines Company from enforcing its said demands against The Chicago Company by any proper action at law or in equity, or from recovering the amount, which may be at any time due and unpaid, if it shall so elect.

§ 21. It is further agreed between the parties hereto that at the expiration of this lease, or any renewal thereof by lapse of time, The Chicago Company shall have the right to renew the same three times for a further period of twenty-five  
years at each renewal, upon the conditions, provisions  
1131 and stipulations herein contained, save and except the compensation agreed to be paid by The Chicago Company for the use of the property herein demised. The compensation for each succeeding period of twenty-five years shall be a fair, reasonable and just compensation for the use enjoyed, and if the same cannot be agreed upon by the parties it shall be determined by a Board of Arbitrators consisting of three persons, one of whom shall be chosen by The Des Moines Company, one by The Chicago Company, and the

two thus chosen shall select a third, and the award of such arbitrators shall be rendered within thirty days after the expiration of this lease, and shall be final and conclusive. And it is further stipulated and agreed that the said arbitrators in determining the compensation to be paid for the ensuing period will assume that The Chicago Company shall have the rights and privileges with respect to said terminal property hereby granted and no other.

§ 22. It is further agreed that for the convenience of the parties there shall be made as soon as practicable, a map showing the terminal property of The Des Moines Company, with all its tracks and appurtenances, and also showing the tracks and appurtenances herein agreed to be constructed for the exclusive use of The Chicago Company. Said map shall be made in duplicate and be authenticated with the signatures of the Chief Engineers or Presidents of the respective companies, and when so prepared and authenticated shall be used by the parties hereto for the purpose of more  
1132 fully showing the location and relation of the property herein described.

In Witness Whereof the parties have by their respective Presidents and Secretaries, thereunto duly authorized signed the names and attached the seals of the said Des Moines Union Railway Company, and the said Chicago Great Western Railway Company, the day and year first above written.

DES MOINES UNION RAILWAY CO.,

(Seal)

By F. C. Hubbell, President.

Attest :

F. M. Hubbell, Secretary.

CHICAGO GREAT WESTERN RAIL-  
WAY CO.,

(Seal)

By A. B. Stickney, President.

Attest :

R. C. Wright, Secretary.

.....  
.....

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THE C., M. &amp; ST. P. RY. CO. ET AL. VS.

1133

**Defendants' Exhibit 526a.****Terminal Contract.**

between the

Des Moines Union Railway Company

and the

Iowa Central Railway Company.

This Agreement, made and entered into this fifth day of January A. D. 1899, by and between the Des Moines Union Railway Company, a Corporation organized and existing under the laws of the State of Iowa, and hereinafter termed "Des Moines Company", party of the first part, and the Iowa Central Railway Company, a Corporation organized and existing under the laws of the State of Illinois, and hereinafter termed "Iowa Company", party of the second part, Witnesseth: That

Whereas the Des Moines Company owns and operates a terminal line of railway in the City of Des Moines, Iowa, extending from the east line of Section two (2), Township seventy-eight (78), Range twenty-four (24) in said City of Des Moines, westward to West Twenty-eighth Street in said City, and has acquired or constructed a large number of main and side tracks, depots, depot grounds, lands, yards, shops, round houses, freight houses and other terminal facilities and intends to acquire and construct other facilities of that character as the demands of business may require; and

Whereas the terminal facilities of the Des Moines Company are already used by the Wabash Railroad Company,  
1134 the Des Moines, Northern & Western Railroad Company and the Chicago Great Western Railway Company, under contracts heretofore executed; and

Whereas the said Iowa Company now owns and operates certain lines of railway in the State of Iowa and proposes to extend said lines to the City of Des Moines, either by construction of new lines or lease of lines now entering Des Moines; and

Whereas the Iowa Company is desirous of acquiring the right to use the said railway of the Des Moines Company or a part thereof under the terms and conditions hereinafter set forth, and in common with such railway companies as may now use the same or to which the right may hereafter be granted,

and so make the terminals of the Des Moines Company the terminals of the Iowa Company in the City of Des Moines;

Now, therefore, in consideration of the premises and the mutual covenants and undertakings herein contained, it is agreed between the parties hereto as follows, to-wit:

Section 1. The Des Moines Company, in consideration of the payments to be made to it by the Iowa Company, as hereinafter specified, hereby grants to the Iowa Company the use in common with such other railway companies as now have or may hereafter acquire the right to use the same, of its said terminal railway, with the facilities and appurtenances thereunto belonging, except that part of said terminal property, the exclusive use of which has been heretofore granted to 1135 the Chicago Great Western Railway Company under and by virtue of an agreement entered into between the said Des Moines Company and the said Chicago Great Western Railway Company, bearing date July 2nd, 1896. The use of the new passenger station now in course of construction shall include the right to receive and discharge passengers and baggage, the right to receive and discharge express matter, the use of the passenger station by passengers, and the services of the necessary baggagemen and ticket agents, but shall not extend beyond the ordinary use of a station for passenger traffic. And the Des Moines Company agrees to keep and maintain said terminal property in good condition and repair and to provide and maintain all such engines, machinery, appliances, buildings and structures and all such servants and employees as shall be reasonably necessary for the conduct of the business and the handling and moving of cars, passenger and freight, of the said Iowa Company, and the housing and care of its engines. And the said Des Moines Company further agrees to switch all cars, handle all freight and house and care for all engines of said Iowa Company which may be delivered to it, or which may come upon its said premises in so far as the said Iowa Company may request it so to do. Provided, that the Des Moines Company may exclusively lease any hereafter acquired property to any railway which may enter said ter- 1136 minals after the date of this contract, and if any such exclusive lease or leases be made, no part of the interest upon the cost of such property, or bonds issued therefor, shall be charged to the Iowa Company.

Sec. 2. The Iowa Company, except as provided in Section 15, agrees to pay to the said Des Moines Company monthly a sum of money to be ascertained as follows, to-wit:

First. There shall be ascertained the amount required to pay five per cent. interest upon the mortgage bonds and floating debt of the Des Moines Company, one-twelfth of which, less any deduction hereinafter provided for shall be payable monthly, as hereinafter specified.

2nd. At the expiration of each month, or as soon thereafter as practicable, there shall be ascertained the expense of maintaining, repairing and renewing the terminal property of the Des Moines Company, including the maintenance, renewal and repair of tracks, depots, round houses, engine, houses, etc., during the preceding month. And in like manner there shall be ascertained the taxes general or special levied upon or against said property and paid during the preceding month or to be paid during the next succeeding month, and the insurance, if any, paid during the preceding month or to be paid during the next succeeding month.

3rd. There shall be likewise ascertained the cost and expenses of every nature connected with the operation of said terminal property, including freight and passenger depots, depot grounds, round houses, transfers, tracks and every other property or appurtenance thereof, which is to include every item of expense or disbursement incurred or made by the Des Moines Company, not hereinbefore mentioned, except the expenses specified in Section Five (5) hereof.

Section 3. Having so ascertained the monthly aggregate of all the items and sums mentioned in the preceding section, there shall be deducted therefrom the amount if any which railway companies other than the Des Moines Northern & Western Railroad Company and the Wabash Railroad Company may be under obligation to pay by virtue of contracts for the herein demised property or parts thereof for the preceding month and the Iowa Company shall pay that part of the remainder which bears the same proportion to the whole of said remainder that the wheelage of the Iowa Company bears to the entire wheelage of said Des Moines Northern & Western Railroad Company, the Wabash Railroad Company and the Iowa Company, during such preceding month.

Section 4. If the amount or any part of the amount due from Companies other than the Des Moines Northern & Western Railroad Company, the Wabash Railroad Company and the Iowa Company is not paid when due, then its proportion of the sum so due and unpaid shall also on demand of the said Des Moines Company be paid to it by the said Iowa Company on a wheelage basis as hereinbefore defined.

1138 Section 5. The costs and expenses of operating the engine houses and their appurtenances and each of them, including the cost of turning and housing engines, furnishing water and sand, and of wiping, washing and firing up shall be divided and the Iowa Company shall pay such proportion thereof as the number of road engines of the said Iowa Company in and out of said engine house shall bear to the whole number of road engines in and out thereof, during the period for which said costs and expenses are made up. All repairs to the engines of the Iowa Company shall be paid for on the basis of actual cost labor and material and all services rendered, supplies and labor furnished to the Iowa Company for its own benefit and which are not properly a portion of the joint expenses of said terminals shall be charged directly to and be paid by the Iowa Company on such equitable terms as may be agreed upon between the superintendents of the said Companies.

Section 6. The Des Moines Company shall on or before the 10th day of each month or as soon thereafter as practicable, make up and present to the Iowa Company an account showing the amount due hereunder for the preceding month, and payment thereof shall be made within ten days thereafter.

Section 7. The management of the said terminal property, including stations, buildings, tracks, round houses, shops, etc., shall be in charge of a superintendent of the Des Moines Company, who shall in the performance of his duties be governed  
1139 by such regulations as may from time to time be established by the Des Moines Company, the salary of said superintendent and the compensation of other agents and employees of the Des Moines Company shall not be higher than are paid by railway companies in the vicinity for similar services.

Section 8. It is further agreed that the use hereby granted of the said terminal property to the Iowa Company shall be without preference or unreasonable precedence for or to the Des Moines Company, the Iowa Company or any of the lessees of the said terminals in the matter of train schedules or the handling or switching of cars in trains and occupancy of depots or the occupancy of said property or any part thereof in the service herein agreed to be performed; always however to be subject to such reasonable control and discretion by the Des Moines Company as may be necessary to avoid confusion and to expedite the management of the business. And the Des Moines Company shall from time to time make, publish and enforce such rules and regulation for the use, management and operation of said terminals by all the parties using the same

as may be reasonable and as it may from time to time consider necessary.

Section 9. The Des Moines Company shall keep accurate books of account showing in detail all the expenditures made by it on account of the various items of interest, insurance, taxes, operation, maintenance, renewals and repairs, and other disbursements upon and about the premises embraced in this agreement; and the said books shall show the amount  
1140 of work done for and fuel or other material furnished to the said Iowa Company and such books shall give such other details as will at all times enable the parties hereto to make accurate settlement of their accounts, as provided in this agreement, and said books may at all reasonable and proper hours be examined and inspected by the superintendent, auditor or treasurer of the Iowa Company or by any competent accountant in its employ. The said Des Moines Company shall also keep an accurate record of all the engines and  
the engines and cars of each tenant railway using said terminals and paying therefor on a wheelage basis, coming upon or leaving said terminals, and of all the engines which have been housed at said engine houses in each month and as hereinbefore provided said Des Moines Company shall furnish to the Iowa Company a full, true and detailed statement of all the expenditures made and of all the fuel and supplies used, delivered and received of all the cars and engines received, handled or switched, of all work done or repairs made and of all the engines housed and other expenses connected with the operation of said property during the month next preceding.

Section 10. All damages which may be received by any engine or engines, car or cars of either party hereto while being switched by the Des Moines Company at or upon any part of the premises embraced in this agreement shall be repaired for the party to whom such rolling stock belongs, and the cost of  
such repair shall be borne and paid on a wheelage basis  
1141 as herein defined.

Section 11. All damages to property other than as above described caused by any engine or engines, car or cars of any railway using said terminals or by any imperfection in the track or tracks laid upon said premises and all injuries which may at any time be received by any person or persons in, around, about or upon said terminals, shall, if settled at all, be adjusted and settled by the Des Moines Company and sums thus paid in settlement or settlements shall be borne and paid upon a wheelage basis, as herein defined. Provided, however, that the Iowa Company shall at its own sole cost and expense bear and settle and pay all damages to property belong-

ing to itself to the Des Moines Company or to third persons, and all injuries to persons when said damages or injuries are done to or by its own trains while said trains are being moved by its own engines and operated and controlled by its own crew, unless such damages or injuries are occasioned by the act, neglect or fault of the servants of the Des Moines Company, or by some imperfection in its track or tracks, and in case such damage or injuries are occasioned by the act, negligence or fault of the servants of the Des Moines Company or by any imperfections in said track their settlements and payments shall be made by the Des Moines Co. as in this Section first provided.

Section 12. All persons employed and paid either permanently or temporarily by said Des Moines Company in the maintenance and operation of said terminals shall be deemed and taken to be the employees and servants of the Des Moines Company.

1142 Section 13. The Iowa Company agrees that if it enters Des Moines it will use the said terminals for all its passenger or freight trains destined to or departing from said City of Des Moines.

Section 14. The revenue of the Des Moines Company from depot privileges, rents of offices in the Union Station or other depots, switching, passenger business done on its own behalf and rents from real estate and miscellaneous earnings shall be used by the said Des Moines Company either as working capital or in the payment of its floating debt or the enlargement or betterment of its said terminal property.

Section 15. It is agreed that the amount paid by the Iowa Company upon the basis hereinbefore defined for the passenger station or stations shall be its share upon a wheelage basis, of the following items, to-wit:

1st. Interest at 5% per annum upon the cost of the passenger station or stations not including the real property upon which said station or stations are or may be situated.

2nd. Interest at five per cent per annum upon the cost of tracks and appurtenances constructed especially for the passenger station or stations, as distinguished from tracks used for general terminal purposes.

3rd. The maintenance, renewal and operation, including insurance, of such passenger station or stations.

Section 16. It is further agreed that the several covenants, conditions and stipulations herein contained shall be mutually

binding upon the respective parties hereto their suc-  
1143 sor, successors and assigns for the term of twenty (20)  
years from the first day of May, A. D. 1898, unless this  
contract shall be sooner terminated by consent of the parties  
hereto or by reason of the provisions hereof.

Section 17. It is further agreed that inasmuch as the Iowa  
Company have not yet built its proposed extension it shall  
have until the 1st day of July, A. D. 1900, to determine  
whether this contract shall become binding and operative  
upon the parties hereto and shall on or before the date last  
aforesaid give notice in writing to the Des Moines Company of  
its action in that respect; but it is understood and agreed that  
if the said Iowa Company shall enter Des Moines as a railway  
on and using the Des Moines Company's terminals on or before  
the 1st day of July, A. D. 1900, it shall become bound by  
the terms and provisions hereof without further notice.

Section 18. In case any difference shall hereafter arise be-  
tween the parties hereto concerning the management of said  
terminal station, depots, grounds, yards, tracks and other ter-  
minal facilities of the said Des Moines Company with respect  
to any matter not herein provided for or concerning any other  
matter or thing connected therewith, but not herein expressly  
provided for, such differences shall be referred to three compe-  
tent men, experienced in railroad management, who shall, as  
soon as practicable after they are chosen, proceed to examine  
and determine what would be just and equitable for each of  
said parties to do in and about the matter in dispute. Each  
party shall choose one of said arbitrators and the two  
1144 thus chosen shall select the third arbitrator and the deci-  
sion in writing of a majority of said arbitrators with re-  
spect to the matter submitted shall be furnished to and be  
thereafter binding upon each of the said parties. Provided,  
however, that such differences shall have no effect on the course  
of business at said terminal station, depot, grounds, yards, etc.,  
until the final decision of said arbitrators shall be made; but  
such business shall continue to be transacted, such settlements  
and payments as are herein provided for shall be made as be-  
fore until the matter in dispute shall be adjusted by the said  
arbitrators, and thereupon such payments or restitutions shall  
be made as may be required by the decision of said arbitra-  
tors.

In Witness Whereof, the respective parties hereto have caused  
their corporate seals to be hereunto affixed and these  
presents to be signed by their respective Presidents and

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attested by their Secretaries, respectively the day and year first above written.

(Seal) **DES MOINES UNION RAILWAY COMPANY,**

By H. D. Thompson, Vice President.

Attest: F. M. Hubbell, Secretary.

(Seal) **IOWA CENTRAL RAILWAY COMPANY,**

By H. J. Kimball, Its President.

Attest: W. Sennum Jones, Secretary.

1145 Des Moines, Iowa. Feb'y. 14, 1899.

I, F. M. Hubbell, Secretary of the Des Moines Union Railway Company, hereby certify that on this day at a meeting of the Directors of this Company, the following resolution was passed by the unanimous vote of all of the Directors:

Resolved, by the Board of Directors of the Des Moines Union Railway Company that the contract bearing date January 5th, 1899, entered into by and between the Des Moines Union Railway Company and the Iowa Central Railway Company, which contract has been signed by their respective Presidents and Secretaries, with the seals of the respective Companies there-to attached, be and the same is hereby ratified, approved and in all respects confirmed on the part of the Des Moines Union Railway Company, and the Secretary of this Company is hereby authorized to attach to the said contract a certified copy of this resolution.

(Seal) F. M. HUBBELL, Secretary.

1146 **Defendants' Exhibit 527.**

### **Contract and Lease.**

Des Moines Union Railway Company

Des Moines, Iowa

to the

Chicago, Burlington & Quincy Railroad

Company.

1147 **Lease.**

This Agreement, Made and entered into this 3rd day of September, A. D. 1901, by and between the Des Moines Union Railway Company, a corporation organized and existing under the laws of the State of Iowa, first party, and the Chicago,

Burlington & Quincy Railroad Company, a corporation organized and existing under the laws of the State of Illinois, second party, Witnesseth, That

Whereas, The first party is the owner of a Union Passenger Station located between West Fifth and West Seventh Streets in the City of Des Moines, Iowa, and

Whereas, The second party, which owns and operates two lines of railroad entering said city, desires to join in the common use of the aforesaid Union Passenger Station, located on the premises shown on the two plats hereto attached and made a part hereof, which plats, for the purpose of identification, bear the signatures of J. A. Wagner and C. M. Levey.

Now Therefore, In consideration of the premises and of the covenants and undertakings hereinafter set forth, it is agreed as follows:

#### Article I.

The first party shall acquire the right-of-way for and build a good and sufficient track from the existing track of the first party near the place marked "A" to a connection with 1148 the main track of the second party near the place marked "B" on said plat No. 1, said track so to be built being shown in red thereon. The second party shall, at its sole cost and expense, furnish, put in and maintain the frog and switch used in connecting said track, so to be built, with said main track of the second party. The second point of connection between the tracks of the parties hereto shall be at the point marked "C", on said plat No. 1, and the second party shall, at its sole cost and expense, maintain the frog and switch used in making said connection.

#### Article II.

Section 1. The first party hereby grants to the second party the right to pass over, use and enjoy, in common with the first party and the railroad companies now or hereafter admitted to such common use and enjoyment, each and all of the track or tracks of the first party shown in red on said plats for the purpose of entering, departing from or passing through said Union Passenger Station with the passenger, baggage, mail or express cars or trains of the second party, and the engines used in handling the same, including like cars of other companies when in a train of the second party. Said use shall also include the right to pass from said Union Passenger Station with said trains, cars, or engines after arrival, and to bring said trains, cars or engines to said Union Passenger

## THE DES MOINES UNION RY. CO., ET AL.

Station prior to departure, with either road or switch engines. Trains doing both passenger and freight business, commonly called "mixed" trains, and the engines handling the same, shall be entitled to the rights and privileges provided for passenger trains, if all freight cars are cut out of said mixed trains before they enter upon the tracks of the first party.

1149 Sec. 2. The first party hereby grants to the second party the right to use and enjoy, in common with the first party and the railroad companies now or hereafter admitted to such common use and enjoyment, the said Union Passenger Station, together with all side tracks, switches, cross-overs, train sheds, buildings, structures, fixtures, appliances, and other things like or unlike the foregoing enumeration, whether herein specifically enumerated or not, connected or used with or appertaining to said Union Passenger Station and all additions and improvements thereof, for the following purposes: For receiving and discharging passengers, baggage, mail, or express; for storing baggage; as a place for passengers to await the arrival and departure of trains; for the sale of tickets; and for all such uses and purposes, like or unlike the foregoing enumeration, whether herein specifically enumerated or not, as such premises are or shall be used for by other tenant companies of the first party in the transaction of the passenger business of a railroad company. It being expressly understood and agreed that the second party may use the aforesaid Union Passenger Station, with its side tracks, switches, cross-overs, train sheds, buildings, structures, fixtures, appliances, and other things like or unlike the foregoing enumeration, whether herein specifically enumerated or not, and which are connected or used with or appertaining to said Union Passenger Station and all additions and improvements thereof, for any other use or purpose that may be contemporaneously accorded or permitted any other railroad company entering the said Union Passenger Station in caring for or handling its passenger business.

1150 Sec. 3. The premises and property, the use and enjoyment of which, in common with other railroads as hereinbefore provided, are granted by this agreement to the second party, are hereinafter designated as "Terminal Facilities."

Sec. 4. The use and enjoyment of "terminal facilities" hereinbefore granted, for which the monthly sum of \$500 is hereinafter made full compensation and rental, is and shall be at all times confined to trains, cars and engines routed to or from said Des Moines, over the said two existing lines of the second party, and over none other.

Sec. 5. If, however, the second party shall hereafter desire like use and enjoyment of said "terminal facilities" for its trains, cars or engines from or to any other line of railroad which it may hereafter acquire, control, or operate (hereinafter for this purpose styled "additional trains, cars, and engines," and "additional line"), it shall be entitled to and is hereby granted such like use and enjoyment for and in respect to all such additional trains, cars and engines, to the same extent, and, (except as hereinafter further provided) upon the same terms and conditions as hereinbefore provided and granted in respect to its trains, cars and engines routed as aforesaid. The said second party shall and will, in every such case, pay to said first party not only said monthly sum of \$500, but shall, each month, therewith pay, in respect to every such additional car, such additional compensation and rental as shall equal the quotient of \$500 divided by the whole number of cars which were during the next preceding month routed as aforesaid solely over said existing lines; for all purposes of such additional compensation and rental every engine of said second party of whatever line, entering or leaving said "Terminal Facilities," shall be reckoned as three cars.

Sec. 6. The first party hereby also grants to the second party the right to run a telegraph wire into said Union Passenger

Station, and to use the same for the dispatching of  
 1151 passenger and mail trains and for the handling of such  
 passenger and mail business at the city of Des Moines.  
 The first party shall furnish the operator to operate said wire, but the second party assumes and agrees to hold the first party harmless from all damage caused by the negligence of any such operator with respect to any order or message relating to the movement of engines or trains upon the tracks of the second party.

### Article III.

The first party shall employ and pay all ticket agents, baggage men, depot masters, flagmen, switch and crossing tenders, and all other men needed to care for and operate said Terminal Facilities, and to properly serve and handle the passenger and baggage business of the second party at said Union Passenger Station, and the second party shall be entitled to the services of said employees for such purposes. The first party shall not, however, except as hereinafter expressly provided, be required to furnish train or engine crews or engines for handling or moving said cars, trains or traffic. The second party shall, except as herein otherwise expressly provided, move and handle with its own engines and crews, all trains and cars

which it may bring upon the tracks of the first party hereunder.

Employees of the second party shall throw the switches for the accommodation of its engines, cars, and trains, where the said tracks of the first party join the tracks of the second party, near the places marked "B" and "C".

Employees of the first party shall flag all railroad or street crossings, if required by law or by ordinance or regulations of the City of Des Moines, and shall throw all other switches and operate all signals for the passage of the passenger trains of the second party, in or out of the Union Passenger Station, but shall not be required to do such work for engines of the second party moving cars not containing passengers, which do not belong to said passenger trains, except at places where the first party have employees regularly employed in doing such work.

The first party shall heat said Union Passenger Station and keep the same, and all walks, train sheds, platforms, and premises adjacent thereto, or used in connection therewith, clean, safe and free from all unnecessary obstructions, and properly lighted.

The first party shall cause said Union Passenger Station, together with the ticket offices and baggage rooms therein contained, and the premises adjacent thereto, to be opened and ready to serve the public such a length of time before and after the arrival and departure of the trains of the second party as may be reasonably required by the second party.

#### Article IV.

The first party shall keep and maintain said Terminal Facilities and all improvements and additions thereto in good condition and repair, and shall make improvements in and additions thereto whenever reasonably necessary for the prompt, convenient, and proper handling of the business of the second party.

#### Article V.

If by reason of increase in business or a substantial change in said Terminal System, it shall be necessary for the first party to change the tracks to be used by the second party, the first party shall have the right to change the same or substitute other or different tracks therefor, provided that such changed, other, or different tracks shall afford the same or equally as good facilities to the second party in the transaction of its business.

## Article VI.

The first party shall require every employe at said Union Passenger Station, who sells tickets, before entering upon his duties, to give a good and sufficient indemnifying bond to the second party for the faithful performance of his duties; such bond to be in such an amount, so conditioned, and with such sureties as may be reasonably required by the second party. Such employes shall be required to renew said bonds from time to time as occasion may require. The second party shall pay the premium for procuring such bonds, and the first party shall not be liable for any loss or damage on account of the unfaithfulness of any such ticket agent.

## Article VII.

If the baggage or express matter handled by the second party shall be in carload lots, the loading or unloading of which would unreasonably obstruct the platform at said Union Passenger Station, the first party may, if it so elects, furnish at its own cost and expense, a convenient side-track near said Union Passenger Station and easily accessible to teams, where it may require such loading or unloading to be done. The switching of said cars to and from said side-track shall be promptly done by the first party at one dollar and fifty cents per loaded car.

No charge for empty cars.

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## Article VIII.

If said Terminal Facilities, or any part thereof, shall be destroyed or damaged, the first party shall, at its sole cost and expense, promptly rebuild or repair the same, the time for completion of such work in no event to exceed nine months from the date of such destruction or damage; and shall also furnish for the use of the second party, temporary and adequate facilities in place of those destroyed or damaged, which said temporary facilities shall during the period said premises are being rebuilt or repaired, be accepted by the second party as a full equivalent for the said original Terminal Facilities. If the first party shall fail or neglect to promptly commence and diligently prosecute such repairs or rebuilding, the second party shall have the option to cancel and forever terminate this agreement.

## Article IX.

So long as the first party maintains a passenger station in the City of Des Moines east of the Des Moines River, the second party shall, without additional cost, have the right to use such station, in common with such other railroad companies

as now have or may hereafter acquire the right to use the same, and to receive such service as the party of the first part may render at such station to passenger trains.

#### Article X.

The said second party shall and will pay to the said first party, on the fifteenth day of each month, as full compensation and rental for the uses, rights, and privileges in and by this contract granted; firstly, for the use and enjoyment of 1155 said terminal facilities, during the then next preceding month in respect to trains, cars, and engines routed as aforesaid solely over said two existing lines, the monthly sum of \$500; and secondly, such further sum, if any, as shall be requisite to satisfy and discharge any and all additional compensation and rental which shall, during such preceding month, have accrued by virtue of Section 5 (five) of Article II hereof; all which payments shall be made in lawful money of the United States at the office of the Treasurer of said first party in said City of Des Moines.

#### Article XI.

It is agreed that all time cards, rules, regulations and orders, for the movement and operation of trains, cars and engines, and for the beneficial enjoyment of the property, the joint, concurrent or common use of which is embraced in this agreement, shall be made and promulgated from time to time by the first party. The movement of trains, cars, and engines upon said property shall be under the immediate direction of the Superintendent or other proper officers or agent of the first party, but such time cards, rules, regulations and orders shall be reasonable, just, and fair to all parties using said property, without preference or discrimination in favor of or against either; but passenger trains of all kinds shall have the right of way and precedence over all other trains and kinds of business upon said property. Changes in the rules or regulations shall not be made except upon reasonable notice to the second party. The first party shall have the general control, management, and supervision over said Terminal Facilities, and the right to enforce proper discipline of employes of the second party using 1156 any of the tracks or property of the first party in common with any of the other railroad companies now or hereafter using said Terminal Facilities, and in the event that the second party shall fail or refuse to enforce against any of its employes the penalties prescribed by the first party, the first party shall have the absolute right to bar said employes from said Terminal Facilities.

All receipts at said Union Passenger Station for tickets sold for or on account of the second party, and all receipts for excess baggage carried or to be carried over roads owned or controlled by the second party, shall be remitted to the second party at such times and in such manner as said second party may direct. The employees of the first party shall keep the records and make reports concerning the business of the said second party as may be required by the second party.

#### Article XII.

All the employees of the first party shall be removed on good cause shown. The second party shall have the right to place a suitable clerk, at its own cost and expense and for a limited time, not exceeding thirty days in any one period, in the ticket office of said Union Passenger Station, with power to observe and make note of the course of ticket sales and the conduct of the ticket agents herein provided to be employed, with a view of determining whether said ticket agents preserve the strictest equality and impartiality in respect to the second party, as herein intended. If the second party shall request the removal of a ticket agent, and the first party shall fail or refuse to remove him, the validity of the course shown shall be determined by the Board of Reference, herein provided for, and in the event of such reference, if the first party shall fail to appoint a member within five days after notice in writing from 1157 the second party, then the first party shall remove the ticket agent of whom complaint is made.

#### Article XIII.

Section 1. The party of the second part hereby agrees to assume all risks of all loss, damage or injury which shall in any manner occur in or upon any track, building, or premises, any use whereof is hereinbefore granted, whether to its property, or to property in its custody, or to its passengers, or to its employees, or which third persons or the property of third persons shall there suffer by reason of the movement of any of its engines, cars, or trains as fully in all respects as if it had then been in the exclusive use and control of such track, building or premises; excepting only such loss, damage and injury as shall be caused by gross negligence of employees solely of the party of the first part; and, except only as aforesaid, the party of the second part hereby agrees to save the party of the first part harmless from all such loss, damage and injury, from all liability claimed therefor, and from all consequent cost and expenses. Provided, however, and the parties hereto expressly covenant and agree that in case of a collision between their respective engines, cars or trains, while on any of the premises

aforesaid, the party, whose employees are alone in fault, shall be solely responsible for and settle and pay for the entire loss and damage caused thereby; and shall so save the other party harmless therefrom; and that in case such collision is caused by the fault of employees of both parties or by the fault of any joint employe or employees, or in case the cause of the collision is so concealed that it cannot be determined whose employe or employees were in fault, each party shall bear and pay all the loss and injury which its own property or property in its custody, or its employes or passengers may have suffered in consequence thereof.

1158 Sec. 2. The party of the second part shall and will at all times, and it does hereby agree to indemnify the party of the first part against all claims for loss or damage growing out of the acts or neglects of the ticket sellers and baggage handlers at the Passenger Station aforesaid, so far as such acts or neglects shall be connected with or concern the business of the party of the second part transacted thereat; and from all claims for loss of or damage to any baggage or express matter which the party of the second part may bring to said station, or which may be delivered thereat for transportation by its trains, no matter how such loss or damage may occur.

#### Article XIV.

If either party shall fail to carry out or perform this agreement, or any part thereof, the other party shall have the option of terminating the same. Before such option accrues, the party desiring to terminate the agreement shall give notice in writing to the other party of its intention so to do, with the reasons therefor. If within sixty days, thereafter the party in default has complied with the provisions of this agreement so as to be no longer in default, the option to terminate the same shall not accrue; if otherwise, the party giving such notice may, after said sixty days, terminate this agreement by a further written notice to the other party.

If at any time, by operation of law or because of the process, order, or decree of any court, either of the parties hereto, or any receiver or trustee therefor, shall have the right or option to terminate this agreement before its expiration, then the other party shall have a like right and option.

1159

#### Article XV.

So long as this agreement shall remain in force and effect, no difference which may arise as to the construc-

tion or performance of the terms, covenants, or conditions of this agreement shall affect, while it remains undetermined, the use or enjoyment of the said Terminal Facilities, or the rights or privileges herein conferred, in the manner in which the parties have heretofore enjoyed such use. Such use shall continue and settlements and payments shall be made as before the existence of such difference. When such difference shall finally be settled, by reference or otherwise, payments and settlements shall be made by the respective parties as may be required by the award of the referees, or as provided in the agreement of adjustment, as the case may be.

#### Article XVI.

If any controversy shall arise as to the construction of this contract, or any violation of its provisions, or in respect to the performance of any duties which it may be claimed it imposes, or as to any amount claimed to be due under its provisions, such controversy shall be submitted to three disinterested persons experienced in railway operation, as a Board of Reference. One member of said Board shall be selected by each party. The two thus chosen shall select a third, and the finding of said Board of Reference, or a majority of them, made in writing shall be final and conclusive on the parties hereto.

#### Article XVII.

1160 This agreement shall be and remain in force from 1902 to May 1st, 1908, unless sooner terminated in the manner hereinbefore provided.

#### Article XVIII.

The first party shall warrant and defend the second party in the quiet and undisturbed use and enjoyment of said Terminal Facilities as in this agreement contemplated, and of the rights and privileges herein sought to be conferred, and shall hold the second party free from all taxes, levies, assessments or other public charges levied, assessed or charged against the said property or franchise of the first party, and free from all taxes, levies or assessments levied or assessed upon the second party because or by reason of the fact that said Terminal Facilities are used and enjoyed by the second party, or by reason of the fact that the trains of the second party are operated over the tracks or property of the first party, but not including any franchise tax which may be levied or assessed against the second party.

## Article XIX.

The grants, covenants and agreements herein contained shall run to and be binding upon the parties hereto, their successors, legal representatives and assigns; but nothing herein contained shall be construed as authorizing the second party to sublet the rights or privileges hereby granted or conferred to any other railroad company.

1161 In Witness Whereof, the parties hereto have caused their corporate names and seals to be hereunto, and to one other original, affixed, all on the day and year first above written.

DES MOINES UNION RAILWAY COMPANY,

By H. D. Thompson, Vice-President.

Seal.

Attest:

F. M. Hubbard, Secretary.

CHICAGO, BURLINGTON & QUINCY RAILROAD CO.,

By Geo. B. Harris, President.

Seal.

Attest:

T. S. Howland, Secretary.

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**Defendants' Exhibit 528.**

**Contract and Lease.**

Des Moines Union Railway Company,

Des Moines, Iowa

To The

Des Moines, Iowa Falls & Northern Railway Company.

1162

Lease.

This Agreement, Made this 22d day of July, 1902, by and between the Des Moines Union Railway Company, first party, and the Des Moines, Iowa Falls & Northern Railway Company, second party, each a corporation organized and existing under the laws of the State of Iowa, Witnesseth as follows:

The first party is the owner of a Union Passenger Station between West Fifth and West Seventh Streets, in the City of Des Moines, Iowa, and of certain railroad and side tracks in said city, which, with building, structures, fixtures, appliances and other things connected or used therewith or appertaining thereto, constitute a system which the first party uses and operates for the purpose of affording terminal facilities to railroads entering said city; and

That the second party as owning and operating such a railroad, desires to participate in the common use of certain of the aforesaid terminal facilities for the purposes of its passenger business only, and in the manner hereinafter provided;

Now Therefore, In consideration of the premises and of their mutual and dependant covenants and agreements hereinafter contained, the said parties hereby agree as follows:

#### Article I.

The second party shall and will at its sole cost and expense, acquire the right of way for and build a track from the existing tracks of the first party to a connection with the main track of the second party at or near the Great Western Junction in East Des Moines; which connecting track shall be so located and built that in connection with the existing tracks of the first party, it will furnish ingress and egress for the passenger trains of the second party to and from said Union Passenger Station. The second party shall and will, at its sole cost and expense, furnish, put in and maintain the frog and switch to be used in so connecting the said connecting track of the second party.

#### Article II.

The first party hereby grants to the second party the right to use and enjoy, solely for the purposes of the passenger business of the second party, and in common with the first party and other railroad companies now or hereafter admitted to such common use and enjoyment, the said Union Passenger Station and all the aforesaid terminal facilities of the first party designed or customarily used for passenger business and located upon the premises shown on the plat hereto attached and made part hereof (which plat also shows the proposed connecting track provided for in Article I heresof), together with all buildings, structures, fixtures, appliances and other things designed or customarily used for passenger business, connected therewith or pertaining thereto, and all additions and improvements thereof; together with the services of all employees engaged in the care or operation thereof; all whereof are hereinafter referred to and designated as "said Passenger Terminal Facilities." Such use and enjoyment shall be in the manner, subject to the limitations, and only for the purposes hereinafter set forth:

- (a) For the passage and accommodation of all passenger engines, trains and traffic of the second party, express, mail, and baggage cars in such trains included except such thereof as shall in arriving or in departing, be

over any branch or extension hereafter built by the second party and connected with the present tracks of the second party at a point less than fifteen miles from said Union Passenger Station; any mixed train of the second party (carrying passengers and freight), and the engine hauling the same shall be considered entitled to the rights and privileges hereinbefore provided for passenger engines and trains, if all freight cars shall be cut out of such mixed train before entering upon any track of the first party;

(b) For receiving and discharging passengers, baggage, mail and express matter to and from the passenger trains of the second party, for storing baggage, for use as a place for passengers to await the arrival or departure of such trains, for the sale of tickets, and for all such other and further uses and purposes as in the transaction of railway passenger business such premises and facilities are ordinarily used;

(c) For the right to run a telegraph wire or wires into said Union Passenger Station, and to use the same in dispatching passenger and mail trains and in handling passenger, baggage, mail and express business of the second party at said city. The first party shall furnish an operator to operate such wire or wires, but the second party assumes and hereby agrees to save harmless the first party from all damages, claims and demands which shall arise out of any negligence of any such operator with respect to any order or message relating to the movement of any engine or any train upon any track of the second party.

### Article III.

The first party shall, at its sole cost and expense, furnish, 1166 supply and pay all ticket agents, baggage men and depot masters and all other help needed to operate said passenger terminal facilities or to properly serve and handle the passenger and baggage business of the second party at said Union Passenger Station; but the first party shall not, except as hereinafter expressly stipulated, be required to furnish any train or engine crew or any engine for handling or moving any passenger car, train or traffic of the second party. Except as hereinafter otherwise expressly provided, the second party shall and will furnish all such engines and all such engine and train crews as shall be required to haul, switch and handle its cars and trains.

The first party shall at its sole cost and expense heat said Union Passenger Station, and keep the same and all walks, train sheds, platforms and premises adjacent thereto or used in connection therewith in good repair, clean and free from

unnecessary obstructions, and shall cause said Union Passenger Station, together with the ticket offices and baggage rooms therein contained, and the premises adjacent thereto, to be open and ready to serve the public, for such length of time before and after the arrival and departure of each passenger train of the second party as shall be by it reasonably required.

#### Article IV.

The first party shall, at its sole cost and expense, make improvements in and additions to said passenger terminal facilities, whenever the same shall, by reason of increase in business or the admission of other railroad companies to the use and enjoyment thereof, become reasonably necessary for the convenient, economical, prompt and efficient handling of the passenger business or traffic of the second party, and shall  
1167 at its sole cost and expense at all times, maintain and keep said passenger terminal facilities and such improvements and additions thereto in good condition and repair.

#### Article V.

The first party shall require its ticket and baggage agent at said Union Passenger Station to give reasonable bonds for the performance of their duties, which bonds shall contain suitable provisions to protect the second party; in case of a deficiency in the accounts of any such ticket or baggage agent, the first party shall apportion such deficiency on the basis of the cash receipts of all railroad companies using said station from the time when the accounts of such agent were last checked in their interest, and will without delay prosecute the bond by him given and pay over any sum or sums which may be recovered thereon, less the expenses of collecting the same, in accordance with the apportionment made as aforesaid.

#### Article VI.

If express matter there handled by the second party shall be in carload lots, the loading or unloading of which would unreasonably obstruct the platforms at said Union Passenger Station, the first party may, if it so elects, furnish at its own cost and expense a convenient side track near said Union Passenger Station and easily accessible to teams, where it may require such loading or unloading to be done. The switching of such cars to and from such side track shall be promptly done by the first party at the rate of One Dollar and Fifty Cents (\$1.50) for each loaded car, but without charge for empty cars; and for all such switching the second party will pay monthly, at such rate, upon presentation of a bill therefor.

## Article VII.

If said passenger terminal facilities or any part thereof, shall be destroyed or damaged, the first party shall at its sole cost and expense, promptly rebuild or repair the same within nine months from the date of such destruction or damage, and shall also meanwhile furnish for the use of the second party, adequate temporary facilities in the place of those destroyed or damaged; which said temporary facilities shall, while the said premises are being rebuilt or repaired, be accepted by the second party as a full equivalent for the original terminal facilities so destroyed or damaged. If the first party shall neglect or fail promptly to commence and diligently to prosecute such repair or rebuilding, the second party may at its option, cancel and forever terminate this agreement.

## Article VIII.

So long as the first party shall maintain a passenger station east of the Des Moines River, in said city, the second party shall, without additional cost, have the right to use such station, in common with such other railroad companies as now have or may hereafter acquire the right to use the same, and there to receive such service as the party of the first part may at such station at the same time render to passenger trains generally.

## Article IX.

So long as the second party shall not run to or from said Union Passenger Station more than two trains each way per day, the second party shall and will pay to the first party, in lawful money of the United States, as full compensation, 1169 or rental for the rights and privileges hereinbefore granted, the annual sum of Four Thousand Eight Hundred Dollars (\$4,800.00), in equal monthly installments payable on the first day of each month, for the next preceding month; which compensation or rental shall be computed from the date when the second party shall run its first passenger train into said Union Passenger Station; and for each train additional to two trains each way per day, which the second party shall in any given month run to or from said Union Passenger Station, the second party shall and will also pay to the first party on the first day of the next succeeding month, such further sum as will constitute the same proportion of Two Hundred Dollars (\$200.00) as the number of days which such additional train shall have run into or out of said Union Passenger Station during such given month shall bear to the number of days of the same month.

## Article X.

All time cards, rules, regulations and orders for the movement and operation of trains, cars and engines and for the beneficial enjoyment of the property, the common use of which is granted by this agreement shall be from time to time made and promulgated by the first party; all movements of trains, cars and engines upon said property shall be under the immediate direction of the Superintendent or other proper officer or agent of the first party; but such time cards, rules, regulations and orders shall be reasonable, just and fair to all parties using said property, without preference or discrimination in favor of or against either, except that passenger trains of all

kinds shall have the right of way and preference over  
1170 all other trains and kinds of business upon said property. Changes in the rules or regulations shall not be made without reasonable notice to the second party. The first party shall have the general control, management and supervision of said passenger terminal facilities and the right to enforce proper discipline against such employees of the second party as may use tracks or property of the first party which any other railroad company or companies may now or hereafter have the right to use; and if the second party shall refuse or fail to enforce against any such of its employees any penalty prescribed by the first party, the first party shall have the absolute right to debar and exclude such employees from said terminal facilities.

All receipts of said passenger station for tickets sold for or on account of the second party, and all receipts for the carriage of excess baggage over any route owned or controlled by the second party shall be remitted to the second party at such times and in such manner as said second party may direct. The employees of the first party shall keep records and make such reports concerning the business of the second party, as may be by the second party reasonably required.

## Article XI.

Any employee of the first party in or about said passenger terminal facilities, shall be removed for good cause shown by the second party in writing. The second party shall have the right to place in the ticket office of said Union Passenger Station at its own sole expense, for not more than thirty consecutive days at once, a suitable clerk empowered to observe and make note of the course of ticket sales and of the conduct of the ticket agents therein employed, in order to determine whether such ticket agents practice strict equality and impar-

1171 tiality in respect to the second party. If the second party shall in writing, stating the cause, request the

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removal of a ticket agent and the first party shall fail or refuse to remove him, the sufficiency of the cause alleged shall be determined by the Board of Reference hereinafter provided for; and, in the event of such reference, if the first party shall fail to appoint a member of such Board for five days after notice thereto in writing from the second party, the first party shall then remove the ticket agent of whom complaint shall have been so made.

## Article XII.

Section 1. The party of the second part hereby agrees to assume all risks of all loss, damage or injury which shall in any manner occur in or upon any track, building or premises, any use whereof is hereinbefore granted, whether to its property, or to property in its custody, or to its passengers, or to its employees, or which third persons or the property of third persons shall there suffer, by reason of the movement of any of its engines, cars or trains, as fully, in all respects, as if it had then been in the exclusive use and control of such track, building or premises; excepting only such loss, damage and injury as shall be caused by gross negligence of employees solely of the party of the first part and, except only as aforesaid, the party of the second part hereby agrees to save the party of the first part harmless from all such loss, damage and injury, from all liability and claim therefor and from all consequent cost and expenses; provided, however, and the parties hereto expressly covenant and agree that in case of a collision between their respective engines, cars or trains, while on any of the premises aforesaid, the party, whose employees shall have been alone in fault, shall be solely responsible for and settle 1172 and pay for the entire loss and damage caused thereby, and shall so save the other party harmless therefrom; and that if such collision shall be caused by the fault of employees of both parties or if the cause of the collision shall be so concealed that it can not be determined whose employee or employees were in fault, each party shall bear and pay all the loss and injury which its own property, or property in its custody, or its employees or passengers may have suffered in consequence thereof.

Sec. 2. The party of the second part shall and will at all times indemnify the party of the first part against all claims for loss or damage growing out of the acts or neglects of the ticket sellers and baggage handlers at the said Union Passenger Station, so far as such acts or neglects shall be connected with or concern the business of the party of the second part transacted thereat, and from all claims for loss of or damage to any baggage or express matter which the party of the second

part may bring to said station, or which may be delivered thereat for transportation by its trains, no matter how such loss or damage may occur.

#### Article XIII.

If either party shall fail to perform this agreement or any part thereof, the other party shall have the option to terminate the same, but before any such option shall become effective, the party desiring to terminate the agreement shall give notice in writing to the other party of its intention so to do, stating the reasons therefor. If within sixty (60) days thereafter the party in default shall have so complied with the provisions of this agreement as to be no longer in default, such option to terminate shall not become effective; otherwise the party who shall have given such notice may, after such sixty (60) 1173 days, terminate this agreement by a further written notice to the other party.

If by operation of law or because of any final judgment or decree, either party hereto or any Receiver or Trustee of its property shall at any time have a right or option to terminate this agreement before its expiration, the other party shall then have a like right and option.

#### Article XIV.

So long as this agreement shall continue in force, no difference which may arise as to the construction or performance of any terms, covenant or condition thereof, shall while it remains undetermined, affect the use or enjoyment of the said passenger terminal facilities or the rights or privileges herein conferred, or any obligation hereinbefore created, as the parties shall have previously enjoyed such use or discharged such obligations; but such use shall during the pendency of such difference, continue, and settlements and payments shall be made, in all respects as before the rise of such difference; but whenever any such difference shall be finally decided or arranged by reference or otherwise, such payments and settlements shall be made by the respective parties as may be required by the award of the said Board of Reference or be provided by the adjustment agreement, if any.

#### Article XV.

If any controversy shall arise as to the construction of this agreement, or as to any violation of its provisions, or in respect to the performance of any duty which it may be claimed to impose, or as to any amount claimed to be due under its 1174 provisions, such controversy shall be submitted to three disinterested persons experienced in railway operation as a Board of Reference; one member of such Board shall be

selected by each party, the two so chosen shall select a third, and the finding in writing of said Board, or a majority of them, shall be final and conclusive on the parties hereto.

#### Article XVI.

Unless sooner terminated as hereinbefore provided, this agreement shall remain in force until the 31st day of December, 1907, inclusive.

#### Article XVII.

The grants, covenants and agreements herein contained shall run to and be binding upon the parties hereto, their successors and legal representatives, and to and upon any other corporation which may hereafter own or operate the property of either party; but it is nevertheless explicitly agreed that without the written consent of the first party first had and obtained, the second party shall not and will not, in whole or in part, grant or sub-let to any other railroad company any right or privilege hereinbefore granted or conferred, or under guise of doing its own proper business, render or contract to render to any other railroad company any continuous or habitual service in hauling cars or trains of such other railroad company into or out of said passenger station.

#### Article XVIII.

If the first party shall deem it desirable to change any track which shall have been used by the second party, the first party shall have the right to change the same or to substitute another track therefor, provided that such changed or other track shall afford to the second party the same or equally good facilities in and for the transaction of its business aforesaid.

In Witness Whereof, each party hereto hath caused these presents in duplicate to be subscribed by its President, and its corporate seal to be affixed, attested by its Secretary, the day and year first above written.

DES MOINES UNION RAILWAY  
COMPANY,

By H. D. Thompson, Vice-President.

Attest:

F. M. Hubbell, Secretary.

DES MOINES, IOWA FALLS & NORTHERN  
RAILWAY COMPANY,

By E. S. Ellsworth, President.

Attest:

J. H. Funk, Secretary.

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**Defendants' Exhibit 529.****Contract and Lease.**

Des Moines Union Railway Company,

Des Moines, Iowa,

To The

Des Moines and Fort Dodge Railroad

Company.

1177

Lease.

This Agreement, made this 1st day of December, 1904, by and between the Des Moines Union Railway Company, first party, and the Des Moines & Ft. Dodge Railroad Company, second party, each a corporation organized and existing under the laws of the state of Iowa, Witnesseth as follows:

The first party is the owner of a Union Passenger Station between West Fifth and West Seventh Streets, in the City of Des Moines, Iowa, and of certain railroad and side tracks in said city, which, with buildings, structures, fixtures, appliances and other things connected or used therewith or appertaining thereto, constitute a system which the first party uses and operates for the purpose of affording terminal facilities to railroads entering said city; and

That the second party as owning such a railroad, desires to participate in the common use of certain of the aforesaid terminal facilities for the purposes of its passenger business only, and in the manner hereinafter provided;

Now Therefore, In consideration of the premises and of their mutual and dependant covenants and agreements  
1178 hereinafter contained, the said parties hereby agree as follows:

**Article I.**

The first party hereby grants to the second party the right to use and enjoy, solely for the purposes of the passenger business of the second party, and in common with the first party and other railroad companies now or hereafter admitted to such common use and enjoyment, the said Union Passenger Station and all the aforesaid terminal facilities of the first party designed or customarily used for passenger business and located upon the premises shown on the plat hereto attached and made part hereof (which plat also shows the connecting track,) together with all buildings, structures, fixtures, appliances and other things designed or customarily used for pas-

passenger business, connected therewith or pertaining thereto, and all additions and improvements thereof; together with the services of all employes engaged in the care or operation thereof; all whereof are hereafter referred to and designated as "said Passenger Terminal Facilities." Such use and enjoyment shall be in the manner subject to the limitations and only for the purposes hereinafter set forth:

(a) For the passage and accommodation of all passenger engines, trains and traffic of the second party, express, 1179 mail and baggage cars in such trains included; any mixed train of the second party (carrying passengers and freight,) and the engine hauling the same shall be considered entitled to the rights and privileges hereinbefore provided for passenger engines and trains, if all freight cars shall be cut out of such mixed train before entering upon any track of the first party;

(b) For receiving and discharging passengers, baggage, mail and express matter to and from the passenger trains of the second party, for storing baggage, for use as a place for passengers to await the arrival or departure of such trains, for the sale of tickets, and for all such other and further uses and purposes as in the transaction of railway passenger business such premises and facilities are ordinarily used;

(c) For the right to run a telegraph wire or wires into said Union Passenger Station, and to use the same in dispatching passenger and mail trains and in handling passenger, baggage, mail and express business of the second party, at said city. The first party shall furnish an operator to operate such wire or wires, but the second party assumes and hereby agrees to save harmless the first party from all damages, claims and demands which shall arise out of any negligence of any such operator with respect to any order or message relating to the movement of any engine or any train upon any track of the second party.

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## Article II.

The first party shall, at its sole cost and expense, furnish, supply and pay all ticket agents, baggage men and depot masters, and all other help needed to operate said passenger terminal facilities, or to properly serve and handle the passenger and baggage business of the second party at said Union Passenger Station; but the first party shall not, except as hereinafter expressly stipulated, be required to furnish any train or engine crew or any engine for handling or moving any passenger car, train or traffic of the second party. Except as hereinafter otherwise expressly provided, the second party

shall and will furnish all such engines and all such engine and train crews as shall be required to handle its cars and trains.

The first party shall, at its sole cost and expense, heat said Union Passenger Station, and keep the same and all walks, train sheds, platforms, and premises adjacent thereto, or used in connection therewith, in good repair, clean and free from unnecessary obstructions, and shall cause said Union Passenger Station, together with the ticket offices and baggage rooms therein contained, and the premises adjacent thereto, to be open and ready to serve the public, for such length of time before and after the arrival and departure of each passenger train of the second party as shall be by it reasonably required.

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## Article III.

The first party shall, at its sole cost and expense, make improvements in and additions to said passenger terminal facilities whenever the same shall, by reason of increase in business or the admission of other railroad companies to the use and enjoyment thereof, become reasonably necessary for the convenient, economical, prompt and efficient handling of the passenger business or traffic of the second party, and shall, at its sole cost and expense, at all times maintain and keep said passenger terminal facilities and such improvements and additions thereto in good condition and repair.

Nothing herein shall require the first party to add to its present station and track facilities in East Des Moines.

## Article IV.

The first party shall require its ticket and baggage agent at said Union Passenger Station to give reasonable bonds for the performance of their duties, which bonds shall contain suitable provisions to protect the second party; in case of a deficiency in the accounts of any such ticket or baggage agent, the first party shall apportion such deficiency on the basis of the cash receipts of all railroad companies using said station from the time when the accounts of such agent were  
1182 last checked in their interest, and will, without delay, prosecute the bond by him given and pay over any sum or sums which may be recovered thereon, less the expenses of collecting the same, in accordance with the apportionment made as aforesaid.

## Article V.

If express matter there handled by the second party shall be in carload lots, the loading or unloading of which would unreasonably obstruct the platforms at said Union Passenger

Station, the first party may, if it so elects, furnish at its own cost and expense, a convenient side track near said Union Passenger Station and easily accessible to teams, where it may require such loading or unloading to be done. The switching of such cars to and from such side tracks shall be promptly done by the first party at the rate of One Dollar and Fifty Cents (\$1.50) for each loaded car, but without charge for empty cars; and for all such switching the second party will pay monthly, at such rate, upon presentation of a bill therefor.

#### Article VI.

If said passenger terminal facilities, or any part thereof, shall be destroyed or damaged, the first party shall, at its sole cost and expense, promptly rebuild or repair the same within nine months from the date of such destruction or damage, and shall also meanwhile furnish for the use of 1183 the second party, adequate temporary facilities in the place of those destroyed or damaged; which said temporary facilities shall, while the said premises are being rebuilt or repaired, be accepted by the second party as a full equivalent for the original terminal facilities so destroyed or damaged. If the first party shall neglect or fail promptly to commence and diligently to prosecute such repair or rebuilding, the second party may at its option, cancel and forever terminate this agreement.

#### Article VII.

So long as the first party shall maintain a passenger station east of the Des Moines River, in said city, the second party shall, without additional cost, have the right to use such station, in common with such other railroad companies as now have or may hereafter acquire the right to use the same, and there to receive such service as the party of the first part may at such station at the same time render to passenger trains generally.

#### Article VIII.

So long as the second party shall not run to or from said Union Passenger Station more than two trains each way per day, the second party shall and will pay to the first party, in lawful money of the United States, as full compensation, or 1184 the annual sum of Four Thousand Eight Hundred Dollars (\$4,800.00) in equal monthly installments payable on the first day of each month, for the next preceding month; which compensation or rental shall be computed from the date when the second party shall run its first passenger train into said Union Passenger Station; and for each train

additional to two trains each way per day, which the second party shall in any given month run to and from said Union Passenger Station, the second party shall and will also pay to the first party, on the first day of the next succeeding month, such further sum as will constitute the same proportion of Two Hundred Dollars (\$200.00) as the number of days which such additional train shall have run into or out of said Union Passenger Station during such given month shall bear to the number of days of the same month.

#### Article IX.

All time cards, rules, regulations and orders for the movement and operation of trains, cars and engines, and for the beneficial enjoyment of the property, the common use of which is granted by this agreement, shall be from time to time made and promulgated by the first party; all movements of trains, cars and engines upon said property shall be under the immediate direction of the Superintendent or other proper officer or agent of the first party; but such time cards, rules, regulations and orders shall be reasonable, just and fair to all parties using said property, without preference or discrimination in favor of or against either, except that passenger trains of all kinds shall have the right of way and preference over all other trains and kinds of business upon said property. Changes in the rules or regulations shall not be made without reasonable notice to the second party. The first party shall have the general control, management, and supervision of said passenger terminal facilities and the right to enforce proper discipline against such employees of the second party as may use track or property of the first party which any other railroad company or companies may now or hereafter have the right to use; and if the second party shall refuse or fail to enforce against any such of its employees any penalty prescribed by the first party, the first party shall have the absolute right to debar and exclude such employees from said terminal facilities.

All receipts of said passenger station for tickets sold for or on account of the second party, and all receipts for the carriage of excess baggage over any route owned or controlled by the second party, shall be remitted to the second party at such times and in such manner as said second party may direct. The employees of the first party shall keep records and make such reports, concerning the business of the second party, as may be by the second party reasonably required.

1186

## Article X.

Any employe of the first party in or about said passenger terminal facilities, shall be removed for good cause shown by the second party in writing. The second party shall have the right to place in the ticket office of said Union Passenger Station, at its sole expense, for not more than thirty consecutive days at once, a suitable clerk empowered to observe and make note of the course of ticket sales and of the conduct of the ticket agents therein employed, in order to determine whether such ticket agents practice strict equality and impartiality in respect to the second party. If the second party shall in writing, stating the cause, request the removal of a ticket agent and the first party shall fail or refuse to remove him, the sufficiency of the cause alleged shall be determined by the Board of Reference, hereinafter provided for; and, in the event of such reference, if the first party shall fail to appoint a member of such Board for five days after notice thereto in writing from the second party, the first party shall then remove the ticket agent of whom complaint shall have been so made.

## Article XI.

Section 1. The party of the second part hereby, as between the parties hereto, agrees to assume all risks of all loss, damage, or injury which shall in any manner occur in or upon any track, building, or premises, any use whereof is 1187 heretofore granted, whether to its property or to property in its custody, or to its passengers, or to its employes, or which third persons or the property of third persons shall there suffer, by reason of the movement of any of its engines, cars or trains, as full in all respects, as if it had then been in the exclusive use and control of such track, building or premises: excepting only such loss, damage and injury as shall be caused by gross negligence of employes solely of the party of the first part and, except only as aforesaid, the party of the second part hereby agrees to save the party of the first part harmless from all such loss, damage and injury, from all liability and claim therefor and from all consequent cost and expenses; provided, however, and the parties hereto expressly covenant and agree that in case of a collision between their respective engines, cars or trains, while on any of the premises aforesaid, the party, whose employes shall have been alone in fault, shall be solely responsible for and settle and pay for the entire loss and damage caused thereby, and shall so save the other party harmless therefrom; and that if such collision shall be caused by the fault of employes of both

parties, or if the cause of the collision shall be so concealed that it can not be determined whose employe or employes were in fault, each party shall bear and pay all the loss and injury which its own property, or property in its custody, or its employes or passengers may have suffered in consequence thereof.

1188 Section 2. The party of the second part shall and will at all times indemnify the party of the first part against all claims for loss or damage growing out of the acts or neglects of the ticket sellers and baggage handlers at the said Union Passenger Station, so far as such acts or neglects shall be connected with or concern the business of the party of the second part transacted thereat, and from all claims for loss of or damage to any baggage or express matter which the party of the second part may bring to said station, or which may be delivered thereat for transportation by its trains, no matter how such loss or damage may occur.

#### Article XII.

If either party shall fail to perform this agreement or any part thereof, the other party shall have the option to terminate the same, but before any such option shall become effective, the party desiring to terminate the agreement shall give notice in writing to the other party of its intention so to do, stating the reasons therefor. If within sixty (60) days thereafter the party in default shall have so complied with the provisions of this agreement as to be no longer in default, such option to terminate shall not become effective; otherwise the party who shall have given such notice may, after such sixty (60) days, terminate this agreement by a further written notice to the other party.

1189 If by operation of law or because of any final judgment or decree, either party hereto, or any Receiver or Trustee of its property, shall at any time have a right or option to terminate this agreement before its expiration, the other party shall then have a like right and option.

#### Article XIII.

So long as this agreement shall continue in force, no difference which may arise as to the construction or performance of any terms, covenants, or condition thereof, shall, while it remains undetermined, affect the use or enjoyment of the said passenger terminal facilities or the rights or privileges herein conferred, or any obligation heretofore created, as the parties shall have previously enjoyed such use or discharged such obligations; but such use shall, during the pendency of such difference, continue and settlements and payments shall be

made, in all respects as before the rise of such difference; but whenever any such difference shall be finally decided or arranged by reference or otherwise, such payments and settlements shall be made by the respective parties as may be required by the award of the said Board of Reference or be provided by the adjustment agreement, if any.

1190

**Article XIV.**

If any controversy shall arise as to the construction of this agreement, or as to any violation of its provisions, or in respect to the performance of any duty which it may be claimed to impose, or as to any amount claimed to be due under its provisions, such controversy shall be submitted to three disinterested persons, experienced in railway operation, as a Board of Reference; one member of such Board shall be selected by each party, the two so chosen shall elect a third, and the finding in writing of said Board, or a majority of them, shall be final and conclusive on the parties hereto.

**Article XV.**

This agreement shall become effective January 1st, 1905, and continue for five years and thereafter until one year's written notice of cancellation from either party to the other. It is provided, however, that the second party hereto may, at its option, terminate this agreement at any time after the date of its effectiveness by giving to the first party in writing one year's notice of its desire and purpose to do so.

1191

**Article XVI.**

The grants, covenants and agreements herein contained shall run to and be binding upon the parties hereto, their successors and legal representatives, and to and upon any other corporation which may hereinafter own or operate the property of either party, but it is nevertheless explicitly agreed that without the written consent of the first party had and obtained, the second party shall not and will not, in whole or in part, grant or sublet to any other railroad company any right or privilege heretofore granted or conferred, or under guise of doing its own proper business, render or contract to render to any other railroad company any continuous or habitual service in hauling cars or trains of such other railroad company into or out of said passenger station.

**Article XVII.**

If the first party shall deem it desirable to change any track which shall have been used by the second party, the first party shall have the right to change the same or substitute another track therefor, provided that such changed or other track shall

afford to the second party the same or equally good facilities in and for the transaction of its business aforesaid.

In Witness Whereof, each party hereunto hath caused these presents in duplicate to be subscribed by its President,  
1192 and its corporate seal to be affixed, attested by its Secretary, the day and year first above written.

DES MOINES UNION RAILWAY COMPANY,

By F. C. Hubbell, President.

Attest:

F. M. Hubbell, Secretary.

DES MOINES AND FT. DODGE RAILROAD  
CO.,

By E. Hawley, President.

Attest:

W. S. Crandell, Secretary.

1193

**Defendants' Exhibit 530.**

**The Wabash Railroad Company.**

Des Moines Division

First Mortgage.

January 1, 1899.

1194 This Indenture, made this first day of January, in the year one thousand eight hundred and ninety-nine, between The Wabash Railroad Company, a consolidated railway corporation organized under the Laws of the States of Michigan, Ohio, Indiana, Illinois and Missouri, owning and operating continuous lines of railroad in all said States, and, also, lines of railroad extending into the State of Iowa, hereinafter called "the Company," party of the first part, and the Continental Trust Company of the City of New York, Trustee, hereinafter called "the Trustee," party of the second part, Witnesseth:

That whereas, the Company now owns and operates a line of railroad known as the Des Moines and St. Louis Railroad, extending from the City of Des Moines, in the State of Iowa, to Albia, in said State, a distance of about sixty-seven miles, and is engaged in the construction of a line of railroad extending from Albia to Moulton, a distance of about twenty-seven miles, all in the State of Iowa;

And whereas, the Company is now preparing for the construction or acquisition of a line of railroad extending from

East Hannibal to Quincy, in the State of Illinois, a distance of about seventeen miles;

And whereas, the Company owns the entire capital stock of the Des Moines and St. Louis Railroad Company, consisting of twenty thousand (20,000) shares of the par value of one hundred (\$100) dollars each, and five hundred (500) shares of the capital stock of the Des Moines Union Railway Company, of the par value of one hundred (\$100) dollars each, and, also, certain other shares of stock and leasehold interests hereinafter described and granted;

And whereas, the Company has, in pursuance of resolutions of its Board of Directors, and with the authority and approval of a majority in interest of all its stockholders, executed eighteen hundred (1,800) bonds, dated on the 1st day of January, 1899, for the sum of one thousand (\$1,000) each, payable forty (40) years after date to bearer, in gold coin of the United States, of the present standard of weight 1195 and fineness, with interest thereon, at the rate of four (4%) per cent. per annum, payable semi-annually on the first days of January and July of each year, and which bonds are numbered consecutively from No. one (1) to No. eighteen hundred (1800), both inclusive, and all of which are substantially in the form following, to-wit:

1196 \* \* \* \* \*

1197 Now, therefore, this indenture Witnesseth: That to equally secure, as herein provided, the payment of the principal of said eighteen hundred (1,800) bonds for the sum of one thousand (\$1,000) dollars each, amounting in the aggregate to one million eight hundred thousand (\$1,800,000) dollars, and no more; and to secure in like manner the interest on said bonds as the same, from time to time, falls due, and, also, to secure the performance of the several covenants herein expressed, and in consideration of the sum of one (\$1) dollar to the Company paid by the Trustee, the receipt whereof is hereby acknowledged, the Company hath granted, bargained, sold, assigned and set over, and by these presents it does grant, bargain, sell, assign and set over unto the trustee and its successors in this trust forever, all the following described real and personal property, to-wit: All the railroad road-bed, tracks and right of way of the Company known as "The Des Moines and St. Louis Railroad," as the same now is, or may be hereafter constructed, or operated in the State of Iowa, commencing at a point in or near the City of Des Moines where said road connects with the tracks of the Des Moines Union Railway Company, and extending from thence in a southeasterly direction through the Counties

of Polk, Marion and Monroe to the town or city of Albia, in said County of Monroe, a distance of about sixty-seven miles; also, all the railroad, road-bed, tracks and right of way of the Company in the State of Iowa known as the Moulton, Albia and Des Moines Railroad as the same now is or may be hereafter constructed, operated or acquired, commencing at a point in or near the town or city of Albia, in said County of Monroe, where the same connects with the tracks of the road known as "The Des Moines and St. Louis Railroad," and extending from thence in a southerly direction through the counties of Monroe and Appanoose, a distance of about twenty-seven miles, to a point in or near the town or city of Moulton, in said County of Appanoose, where the same connects with the main track or tracks of the Company now constructed and extending from St. Louis, in the State of Missouri, to Ottumwa, in the State of Iowa; also, all the railroad, road-bed, tracks and right of way of the Company in the State of Illinois known as the Hannibal and Quincy Railroad as the same now is, or may be hereafter constructed, acquired or operated, commencing at a point in or near East Hannibal, in the County of Pike, where the same connects with the present track or tracks of the Company and extending from thence through the Counties of Pike and Adams a distance of about seventeen miles to and into the City of Quincy in said State of Illinois, together with all the real estate and terminal properties of the Company in said City of Quincy, and, also, all the rights, privileges, franchises, appurtenances, embankments, bridges, turn-outs, switches, side-tracks, yards, structures, water tanks, shops, engine houses, depots, turntables, engines, cars and other rolling stock, machinery, tools, lots, lands, buildings, offices and all other things, real and personal, now owned or used, or that may be hereafter owned or used by the Company in connection with the lines of railroad herein and hereby granted to the Trustee in both said States of Iowa and Illinois; also twenty thousand (20,000) shares of the capital stock of the Des Moines and St. Louis Railroad Company, of the par value of one hundred (\$100) dollars each; also five hundred (500) shares of the capital stock of the Des Moines Union Railway Company, of the par value of one hundred (\$100) dollars each; also all the capital stock of the Hannibal and Quincy Railroad Company that may be subscribed for or issued; also all the capital stock of the Moulton, Albia and Des Moines Railroad Company that may be subscribed for or issued; and also all the leasehold rights and privileges of the Company to the use and enjoyment of the tracks, stations and terminal properties of the Des Moines Union Railway Company in or near said City of Des Moines, including also the rights and interests of the Company in and to a certain terminal contract, dated the 31st day

of July, 1897, and made by and between the Des Moines Union Railway Company, the Company and the Des Moines Northern and Western Railroad Company, and in and to another contract, dated the 10th day of May, 1889, and made by and between the Des Moines Union Railway Company, the Des Moines and St. Louis Railway Company, the Des Moines and North Western Railway Company, and the St. Louis, Des Moines and Northern Railway Company.

To Have And To Hold all and singular the above granted and described property, together with all its appurtenances, and the revenues, rents, issues and profits thereof unto the Trustee, its successors and assigns forever. This conveyance is made in trust, however, and upon the following conditions, to-wit:

I.—The Company agrees at the time of the execution of these presents to deliver to and deposit with the Trustee the above mentioned terminal contract, dated the 31st day of July, 1897, between the Des Moines Union Railway Company, the Company, and the Des Moines Northern and Western Railroad Company, and also the other above mentioned contract, dated the 10th day of May, 1889, between the Des Moines Union Railway Company, the Des Moines and St. Louis Railway Company, the Des Moines and North Western Railway Company, and the St. Louis, Des Moines and Northern Railway Company, together with an assignment or assignments by the Company to the Trustee of all its rights and interest in and to said contracts, and the consents to such assignment or assignments of the remaining above mentioned parties to said contracts or of their successors or assigns.

In case of the loss or destruction of said two above mentioned contracts the Company may in lieu thereof deliver to and deposit with the Trustee certified copies of said contracts.

And the Company further agrees at the time of the execution of these presents to deliver to, and deposit with, or cause to be delivered to, and deposited with the Trustee, duly endorsed in blank, the above mentioned shares of stock of the Des Moines and St. Louis Railroad Company, and of the above mentioned Des Moines Union Railway Company, and of the above mentioned Hannibal and Quincy Railroad Company, and of the above mentioned Moulton, Albia and Des Moines Railroad Company; and also a consent to the assignment or mortgage by these presents to the Trustee of the above mentioned shares of stock of the Des Moines Union Railway Company, which consent is to be given by the above mentioned Des Moines Northern and Western Railroad Company,

party to the above mentioned terminal contract of the 31st day of July, 1897, or its successors or assigns.

Until default in the payment of the principal or interest of the bonds hereby secured, or in any other provision of this mortgage, the Trustee shall make, sign, execute, or procure and deliver, such proper proxies or powers of attorney to the Company, or its nominees, as shall enable it or them to vote upon the above mentioned shares of stock (or upon such of said shares as may not be necessarily used to qualify members of the Boards of Directors of the said Companies) at all general or special meetings of the stockholders of the said Companies, to the same extent and with the same effect as if these presents had not been executed; except that such voting power shall at no time be used or exercised so as to permit or authorize an increase in the capital stock of any of the said Companies, or so as to permit or authorize any lien, security or charge to be so created or imposed upon the property or franchises of any of said Companies, except for the acquisition of additional terminals in the City of Des Moines, by the Des Moines Union Railway Company; and every proxy or power of attorney given hereunder shall state therein that the same shall not authorize the holder thereof to, and that he shall not vote for, any increase in said stock, nor for the creation or imposition of any such lien, security or charge, except for the acquisition of additional terminals in the City of Des Moines by the Des Moines Union Railway Company, as aforesaid.

In the event, however, of such default, as above mentioned, and during the continuance thereof, the voting power  
1201 upon said stock may be exercised by means of proper proxies which shall be given or procured by the Trustee and delivered to such person or persons as may be designated or appointed by a majority in interest of the holders of the bonds hereby secured, then outstanding, by an instrument in writing duly signed by such holders or their authorized agents, which instrument shall state the place of residence of each holder, and the serial numbers and amount of bonds held by such holder, accompanied by an affidavit of the holder or agent to the effect that he or she is the holder or the agent of the holder of the bonds for which he or she signs; provided, however, that until said majority of the bondholders shall make such designation or appointment, the Trustee may exercise the said voting power.

II.—If the Company, its successors or assigns, shall well and truly pay, or cause to be paid, the principal of the bonds hereby secured and each of them according to their tenor and

effect and all interest on them and each of them as the same, from time to time, falls due, and shall well and truly keep and perform the covenants and agreements, and each of them, here-in expressed to be kept and performed by it, then all the estate, right, title, interest and demand of the Trustee, its successors and assigns in this trust, shall cease and determine; but otherwise, the same shall remain in full force and virtue for the equal benefit and security of the holders of said bonds and each of them to the full extent herein provided.

\* \* \* \* \*

1215 In Witness Whereof, the Company has caused these presents to be signed in its corporate name by its President and attested by its Secretary, and has caused the corporate seal of said Company to be hereunto affixed, and the Continental Trust Company of the City of New York, in token of its acceptance of the trust hereby created, has caused these presents to be signed in its corporate name by its Vice-President, and attested by its Secretary, and has caused the corporate seal of said Company to be hereunto affixed, as the day and year first above written, this instrument being executed in duplicate.

1216

THE WABASH RAILROAD COMPANY,

By O. D. Ashley, President.

[Seal.]

Attest:

J. C. Otteson, Secretary.

CONTINENTAL TRUST COMPANY OF  
THE CITY OF NEW YORK,

By Otto T. Barnard, President.

[Seal.]

Attest:

Willard V. King, Secretary.

.....  
: \$900 :  
: Revenue Stamps :  
: Cancelled. :  
: .....

1219

### Defendants' Exhibit 531.

Know All Men By These Presents:

That Frederick M. Hubbell of Polk County, and State of Iowa, in consideration of the sum of One Thousand Dollars in hand paid by The Des Moines Union Railway Company of

Polk County, and State of Iowa, do hereby Sell and Convey unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, to-wit: Lot number four (4) in block number thirty-three (33) of Keene & Poindexters Addition to Fort Des Moines, now included in the corporate limits of the city of Des Moines, Iowa.

And I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title; that I have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever, except taxes of 1887, and I covenant to Warrant And Defend the said premises against the lawful claims of all persons whomsoever, except taxes of 1887. And Frances E. Hubbell wife of said F. M. Hubbell hereby relinquishes her right of dower in and to the above described premises.

Signed this 4th day of June, A. D. 1888.

FREDERICK M. HUBBELL,  
FRANCES E. HUBBELL.

Duly acknowledged June 4th, 1888. Filed for record in the office of the Recorder of Polk County, Iowa, on the 6th day of June, 1888, and recorded in Book 209, Page 188 of the records in said office.

1220

### **Defendants' Exhibit 532.**

Know All Men By These Presents, That Jefferson S. Polk, of Polk County, and State of Iowa, in consideration of the sum of One Thousand Dollars, in hand paid by the Des Moines Union Railway Company of Polk County, and State of Iowa, do hereby sell and convey unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, to-wit:

Lot number three (3) in Block Number thirty-three (33) of Keene & Poindexters Addition to Fort Des Moines now included in the corporate limits of the city of Des Moines, Iowa.

And I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title; that I have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever except taxes of 1887.

And I covenant to Warrant And Defend the said premises against the lawful claims of all persons whomsoever.

And the Julia Polk, wife of Jefferson S. Polk hereby relinquishes her right in and to the above described premises.

Signed the 4th day of June, A. D. 1888.

JEFFERSON S. POLK,  
JULIA POLK.

Duly acknowledged June 4th, 1888. Filed for record in the office of the Recorder of Polk County, Iowa, on the 6th day of June 1888, and recorded in Book 209, Page 189 of the records in said office.

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**Defendants' Exhibit 533.**

1221

Know All Men By These Presents:

That Jefferson S. Polk & F. M. Hubbell of Polk County, State of Iowa, in consideration of the sum of Seventy Dollars, to us in hand paid by the Des Moines Union Railway Company of Polk County, State of Iowa the receipt whereof ..... do hereby acknowledge, have bargained, sold, and Quit-Claimed; and by these presents do bargain, sell and Quit-Claim unto the said Des Moines Union Railway Company, and to its heirs and assigns forever, all our right, title, interest, estate, claim and demand, both at law and in equity, and as well in possession as in expectancy, of, in and to the following described premises, to-wit:

Lot number two (2) of the Official Plat of Lot twenty seven (27) of Brooks & Co. Addition to the City of Des Moines now included in the corporate limits of the city of Des Moines,

And Julia Polk, wife of Jefferson S. Polk & Frances E. Hubbell wife of F. M. Hubbell hereby relinquish their right of dower in said premises. With all and singular the hereditaments and appurtenances thereto belonging.

Signed this second day of March A. D., 1889.

JEFFERSON S. POLK  
JULIA H. POLK  
F. M. HUBBELL  
FRANCES E. HUBBELL.

1222 Duly acknowledged March 2, 1889. Filed for record in the office of the Recorder of Polk County, Iowa, on the 10th day of April, 1889, and recorded in Book 201, Page 605 of the records in said office.

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**Defendants' Exhibit 534.**

Know all men by these presents:

That Edwin Whitworth and E. T. Whitworth his wife, of the City of Liverpool England, for and in consideration of the sum of five hundred dollars (\$500.00) the receipt whereof is hereby acknowledged, hereby sell and convey unto the Des Moines Union Railway Company, a corporation organized and existing under the laws of the state of Iowa, a right of way for Railway purposes described as follows, to-wit: A strip of land seven (7) feet in width off the west side of lot No. fifty-four (54) and seven (7) feet, in width off the east side of lot fifty-three (53) in Brook's and Co's addition to the City of Des Moines, in the county of Polk and State of Iowa, now included within and forming a part of the City of Des Moines.

And the said grantors in further consideration of the sum of one hundred dollars (\$100.00) to be yearly paid on or before the First day of August in each year, hereby leases unto the said Des Moines Union Railway Company for the period of two years from and after the first day of June, 1889 a certain other right of way described as follows, to-wit: So much land in said lot fifty-four (54) as may be necessary to maintain and operate two certain switches both beginning in the track laid upon the right of way hereinbefore granted in the north half of said lot fifty-four (54), and one extending eastward to the International Distillery and known as 1224 the "International Distillery Switch", the other also extending eastward and connecting with the main line of the Chicago, Burlington & Quincy Railway Company near the center of said lot fifty-four (54).

And the said E. T. Whitworth, wife of said Edwin Whitworth, relinquishes her right of dower in and to the right of way herein first conveyed.

Witness our hands this Twenty-Ninth day of August 1889.

ELIZABETH TALKES WHITWORTH  
EDWIN WHITWORTH.

Witness

..... Buchanan  
5 Lin Thomas Bldg.  
Liverpool

Wm. Pierce  
U. S. Consulate  
Liverpool.

Filed for record in the office of the Recorder of Polk County, Iowa, on the 19th day of December, 1889, and recorded in Book 226, Page 342 of the records in said office.

### Defendants' Exhibit 535.

1225

Know All Men By These Presents, That I, F. M. Hubbell of the County of Polk and State of Iowa in consideration of the sum of One Dollar in hand paid by Des Moines Union Railway Company a corporation organized under the laws of Iowa of the County of Polk and State of Iowa do hereby convey and Quit Claim unto the said Des Moines Union Railway Company all my Right, Title and Interest in and to the following described premises, situated in Polk County, and State of Iowa, to-wit:

Lot number thirteen (13) in block twelve (12) in the town of Des Moines, also the south one-third (1/3) of lot four (4) in block number thirty five (35) and lot number seven (7) in block number four (4) in the Original town of Fort Des Moines, now in the corporate limits of the city of Des Moines,

And Frances E. Hubbell wife of F. M. Hubbell hereby relinquishes her right in and to the above described premises.

Signed this first day of February, A. D. 1890.

F. M. HUBBELL

FRANCES E. HUBBELL.

Duly acknowledged February 1, 1890. Filed for record in the office of the Recorder of Polk County, Iowa, on the 27th day of September, 1906 and recorded in Book 515, Page 203 of the records in said office.

### Defendants' Exhibit 536.

1226

Know All Men By These Presents, That the Chicago, Rock Island and Pacific Railway Company, in consideration of the sum of one dollar (\$1.00) in hand paid by the Des Moines Union Railway Company, do hereby grant and convey unto the said Des Moines Union Railway Company, its successors and assigns, a right of way for railroad purposes over and upon the following described premises situated in the County of Polk and State of Iowa, to-wit:—

A strip of land fifty feet in width, being twenty-five feet on each side of the center line of the track of the said Des Moines Union Railway Company as now located upon and across lot four (4) block twenty-one (21) of H. M. Hoxie's Addition to

the City of Des Moines, now included within the corporate limits of the said City of Des Moines.

In Witness, the Chicago, Rock Island & Pacific Railway Company has caused these presents to be signed by its President and attested by its Secretary this 1st day of March, 1890.

(Seal)

THE CHICAGO, ROCK ISLAND AND  
PACIFIC RAILWAY COMPANY.

By R. R. Cable, President

Attest:

W. G. Purdy, Secretary.

Duly acknowledged October 22, 1890. Filed for record in the office of the Recorder of Polk County, Iowa, on the 1227 6th day of November, 1890, and recorded in Book 267, Page 211, of the records in said office.

1228

### Defendants' Exhibit 537.

Know All Men By These Presents, That the Des Moines & Ft. Dodge Railroad Company in consideration of the sum of Three Hundred Dollars in hand paid by the Des Moines Union Railway Company, do hereby grant and convey unto the said Des Moines Union Railway Company, its successors and assigns a right of way for railroad purposes, over and upon the following described premises situated in the County of Polk and State of Iowa to-wit:—A strip of land fifty feet in width, being twenty-five feet on each side of the center line of the track of the said Des Moines Union Railway Company as now located upon and across lot seven (7) block twenty-one (21) of H. M. Hoxie's Addition to the City of Des Moines, now included within the corporate limits of the said City of Des Moines.

In Witness Whereof, the Des Moines & Ft. Dodge Railroad Company has caused these presents to be signed by its President and attested by its Secretary, this 1st day of March, 1890.

(Seal)

THE DES MOINES & FORT DODGE  
R. R. Co.,

By C. N. Gilmore, President.

Attest:

Geo. Given, Secretary.

Duly acknowledged November 3, 1890. Filed for record in the office of the Recorder of Polk County, Iowa, on the 6th

day of November, 1890, and recorded in Book 247, Page 212 of the records in said office.

### Defendants' Exhibit 538.

1229

Know All Men By These Presents, That C. Huttenlocher, of the County of Polk and State of Iowa in consideration of the sum of Three Thousand Dollars, in hand paid by The Des Moines Union Railway Company of Polk County, State of Iowa, do hereby Sell and Convey unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, to-wit:

Lot number eleven (11) in Block thirty-three (33) of Keene & Poindexters Addition to Fort Des Moines now included in the corporate limits of the city of Des Moines, Iowa.

And I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title; that I have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And I covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever.

And Lydia Huttenlocher, wife of said C. Huttenlocher, hereby relinquishes her right of dower in and to the above described premises.

Signed this 14th day of June A. D. 1890.

C. HUTTENLOCHER.

LYDIA HUTTENLOCHER.

1230 Duly acknowledged June 14, 1890. Filed for record in the office of the Recorder of Polk County, Iowa, on the 10th day of October, 1890, and recorded in Book 253, Page 22 of the records in said office.

1231

### Defendants' Exhibit 539.

Know All Men By These Presents: That Peter Bennett and Maria Bennett, husband and wife of the County of Polk and State of Iowa in consideration of the sum of Eight hundred Dollars, in hand paid by the Des Moines Union Railway Company of Polk County, State of Iowa do hereby Sell And Convey unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, to-wit:

Fractional Lots five (5) and six (6) in Block twenty one (21) Hoxie's Addition to the City of Des Moines and now included within the corporate limits of Des Moines, Iowa.

And I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title; that I have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And I covenant to Warrant And Defend the said premises against the lawful claims of all persons whomsoever.

And the said Maria Bennett hereby relinquishes her right of dower in and to the above described premises.

1232 Signed this 21<sup>st</sup> day of June A. D. 1890.

PETER BENNETT  
MARIA BENNETT.

Duly acknowledged June 21, 1890. Filed for record in the office of the Recorder of Polk County, Iowa, on the 21st day of June 1890, and recorded in Book 248, Page 54 of the records in said office.

1233

### **Defendants' Exhibit 540.**

Know All Men By These Presents: That Ursula Brochi, widow of Philip Brochi, deceased, of Polk County, and State of Iowa in consideration of the sum of Two Thousand Dollars, in hand paid by The Des Moines Union Railway Company of Polk County, and State of Iowa do hereby Sell And Convey unto the said Des Moines Union Railway Company the following described premises situated in the County of Polk and State of Iowa, to-wit:

Lot number four (4) of Block thirty one (31) of Keene & Poindexters Addition to Fort Des Moines now included in the corporate limits of the city of Des Moines, Iowa.

Subject however to the railroad right of way of said Des Moines Union Railway Company.

And I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title; that . . . ha. good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And I covenant to Warrant And Defend the said premises against the lawful claims of all persons whomsoever.

Signed the 25th day of August A. D. 1890.

her  
URSULA X BROTHILL  
mark

Witness

Horace Greely  
E. R. Beaton.

Duly acknowledged August 25, 1890. Filed for record in the office of the recorder of Polk County, Iowa, on August 26th and recorded in Book 248, Page 390 of the records in said office.

### Defendants' Exhibit 541.

1234

Know All Men By These Presents:

That I, F. M. Huddell of Polk County, State of Iowa, in consideration of the sum of Four Thousand Dollars, to me in hand paid by the Des Moines Union Railway Company, the receipt whereof I do hereby acknowledge, have bargained, sold and Quit-claimed, and by these presents do bargain, sell and Quit-claim unto the said Des Moines Union Railway Company, its successors and assigns forever, all my right, title, interest, estate and demand, both at law and in equity and as well in possession as in expectancy, of, in and to the following described premises, to-wit:

One hundred (100) feet in width off the west side of lot two (2) of the official plat of the south-west quarter ( $\frac{1}{4}$ ) and one hundred feet in width off the west side of lot eight (8) of the official plat of the north-west quarter ( $\frac{1}{4}$ ) all in section nine (9) township seventy-eight (78) north of range twenty-four (24) west 5th P. M. Subject, however to any rights which the Des Moines & Ft. Dodge Railway Company may have acquired and hereby reserving to myself, my heirs and assigns, the right to have Market Street extended across said land. The said Market Street to be sixty-six feet wide and wholly South of the right of way of the Des Moines & Ft. Dodge Railroad.

And Frances E. Huddell, wife of F. M. Huddell, hereby relinquishes her right of dower in and to the above described premises.

1235

Signed this 1st day of Sept. A. D. 1890.

F. M. HUBBELL.  
FRANCES E. HUBBELL.

Duly acknowledged September 1, 1890. Filed for record in the office of the Recorder of Polk County, Iowa, on the 2d day of September, 1890, and recorded in Book 247, Page 109 of the records in said office.

1236

### **Defendants' Exhibit 542.**

Know All Men By These Presents, That I, Jefferson S. Polk of Polk County, and State of Iowa in consideration of the sum of Twelve thousand Dollars, in hand paid by The Des Moines Union Railway Company of Polk County, and State of Iowa do hereby Sell and Convey unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, to-wit:

Lot number Eight (8) in Block number four (4) of the Original Town of Fort Des Moines, Iowa, & now included within the corporate limits of the City of Des Moines Iowa.

This conveyance is subject to whatever rights if any the lessee may have under a certain lease made by Jefferson S. Polk to Theo. C. Sherwood dated July 17th 1899 & which the lessor has heretofore declared forfeited.

And I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title; that I have good right and lawful authority to sell and convey the same, that they are free and clear of all liens and incumbrances whatsoever, except said lease if the same be now in force.

And I covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever,  
1237 except as against said Lessee.

And Julia H. Polk wife of said Grantor hereby relinquishes her right in and to the above described premises.

Signed the 4th day of September A. D. 1890.

JEFFERSON S. POLK  
JULIA H. POLK.

Duly acknowledged September 4, 1890. Filed for record in the office of the Recorder of Polk County, Iowa, on the 3d day of September, A. D. 1896, and recorded in Book 352, Page 26 of the records in said office.

1238

### **Defendants' Exhibit 543.**

Know All Men By These Presents: That F. C. Hubbell Trustee of Polk County, and State of Iowa in considera-

## THE DES MOINES UNION RY. CO., ET AL.

tion of the sum of Seven Hundred & fifty Dollars, in hand paid by The Des Moines Union Railway Company of Polk County, and State of Iowa, do hereby Sell And Convey unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, to-wit:

All that part of lots numbered seven (7) and eight (8) in Block numbered forty-nine (49) Jonathan Lyons Addition to city of Des Moines now included in the corporate limits of city of Des Moines—which lies north of the certain strip of land twenty-eight (28) feet wide through said lots which I conveyed to the Des Moines & North Western Railway Company and the Des Moines & Northern Railway Company by deed dated February 11, 1891.

And I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title; that I have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And I covenant to Warrant And Defend the said premises against the lawful claims of all persons whomsoever.

Signed the 12th day of February A. D. 1891.

F. C. HUBBELL, Trustee

1239 State of Iowa,  
Polk County—ss.

On the 12<sup>th</sup> day of February A. D. 1891, before me, C. Huttenlocher a Notary Public within and for said County, personally came F. C. Hubbell, Trustee personally to me known to be the identical person whose name is affixed to the above instrument as grantor and severally acknowledged the execution of the same to be his voluntary act and deed for the purposes therein expressed.

Witness my hand and official seal the day and year last above written.

(Seal)

C. HUTTENLOCHER,  
Notary Public, Polk Co., Iowa.

1240

### Defendants' Exhibit 544.

Des Moines, Iowa, August 10, 1891.

Recognizing the benefits and advantages which will acquire to us by having a single or double side track or switch laid on

the north side of Mulberry Street from Sixteenth Street to the east side of Fourteenth Street, in West Des Moines, We, the undersigned, who own all of the real estate upon the north side of said Mulberry Street between Fourteenth and Sixteenth Streets, do hereby consent that the Des Moines Union Railway Company shall build, maintain and operate a single or double side track or switch upon the north side of said Mulberry Street from Sixteenth Street to the east side of Fourteenth Street, and we hereby release all damages of whatever name and nature we may sustain by reason of the building, maintenance and operation of said tracks.

F. M. HUBBELL,  
B. S. WALKER,  
F. A. PERCIVAL,  
J. KUHN.

Duly acknowledged August 11, 1891. Filed for record in the office of the Recorder of Polk County, Iowa, on the 31st day of August 1891, and recorded in Book 264, Page 111 of the records in said office.

1241

**Defendants' Exhibit 545.**

F. M. Hubbell, B. S. Walker  
F. A. Percival &  
Jacob Kuhn  
to  
Des Moines Union Ry Co.

Consent and  
Release of damages.

Des Moines, Iowa, August 10th, 1891.

Recognizing the benefits and advantage which will acquire to us by having a single or double side track or switch laid on the north side of Mulberry Street, from Sixteenth Street to the east side of Fourteenth Street, in West Des Moines, We, the undersigned, who own all of the real estate upon the north side of said Mulberry Street, between Fourteenth and Sixteenth Streets, do hereby consent that the Des Moines Union Railroad Company shall build, maintain and operate a single or double side track or switch upon the north side of said Mulberry Street from Sixteenth Street, to the east side of Fourteenth Street, and we hereby release all damage of whatever name and nature, we may sustain by reason of the building, maintenance and operation of said tracks.

F. M. HUBBELL,  
B. S. WALKER,

Duly acknowledged August 11th, 1891. Filed for record August 31, 1891 in the office of the Recorder of Polk County, Iowa, and recorded in Book 264, Page 111 of the records in said office.

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**Defendants' Exhibit 546.**

1242

Know All Men By These Presents: That F. M. Hubbell of Polk County, and State of Iowa in consideration of the sum of Three Thousand Sixty-two & 42/100 Dollars, in hand paid by The Des Moines Union Railway Company of Polk County, and State of Iowa, do hereby Sell And Convey unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, to-wit:

The South one half ( $\frac{1}{2}$ ) of the North two thirds ( $\frac{2}{3}$ ) of lot three (3) in Block thirty-five (35) in the Original town of Fort Des Moines now included in the corporate limits of the city of Des Moines, Iowa.

And I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title, that I have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And I covenant to Warrant And Defend The said premises against the lawful claims of all persons whomsoever.

And Frances E. Hubbell, wife of F. M. Hubbell, hereby relinquishes her right in and to the above described premises.

Signed the 21st day of August, A. D. 1891.

F. M. HUBBELL,

FRANCES E. HUBBELL,

Duly acknowledged August 27, 1891. Filed for record in the office of the Recorder of Polk County, Iowa, on the 27th day of August 1891, and recorded in Book 265, Page 437 of the records in said office.

1243

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**Defendants' Exhibit 547.**

Know All Men By These Presents: That We, Luke Caffrey and wife, Bridget Caffrey, of the County of Marion and State of Iowa, in consideration of the sum of Thirty-three Hundred Dollars in hand paid by Des Moines Union Railway Company of Polk County and State of Iowa, do hereby Sell and Convey unto the said Des Moines Union Railway Company

the following described premises, situated in the County of Polk, and State of Iowa, to-wit:

The north one-third (1/3) of Lot Three (3) in Block Thirty-five (35) Original Town of Fort Des Moines, and now included in the corporate limits of the City of Des Moines, Iowa.

And I hereby covenant with the said Des Moines Union Railway Company, that I hold said premises by good and perfect title; that I have good right and lawful authority to sell and convey the same, that they are free and clear of all liens and incumbrances whatsoever.

And I covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever.

And the said Bridget Caffrey, wife of Luke Caffrey, hereby relinquishes her right of dower in and to the above described premises.

Signed this 22d day of August, A. D. 1891.

LUKE CAFFREY  
BRIDGET CAFFREY.

In the presence of  
Thos. A. Cheshire.

Duly acknowledged August 22d, 1891. Filed for record in the office of the Recorder of Polk County, Iowa, August 21, 1891, and recorded in Book 265, Page 425 of the records in said office.

1244

### **Defendants' Exhibit 548.**

Know All Men By These Presents:

That C. Huttenlocher of the County of Polk and State of Iowa in consideration of the sum of One Hundred twenty-nine Dollars, in hand paid by The Des Moines Union Railway Company of Polk County, and State of Iowa, do hereby Sell and Convey unto the said The Des Moines Union Railway Company the following described premises situated in the County of Polk and State of Iowa, to-wit:

Lot number eighteen (18) of the Official Plat of lots numbered two (2) three (3) four (4) five (5) six (6) seven (7) and eight (8) in Block twenty one (21) of the town of Des Moines now included in the corporate limits of the city of Des Moines.

And I do hereby covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever claiming by, through or under us.

And Lydia Huttenlocher wife of C. Huttenlocher hereby relinquishes her right in and to the above described premises.

Signed this 14th day of October A. D. 1891.

C. HUTTENLOCHER  
LYDIA HUTTENLOCHER.

Duly acknowledged October 14th, 1891. Filed for record in the office of the Recorder of Polk County, Iowa, on the 16th day of October 1891, and recorded in Book 266, Page 124 of the records in said office.

1245

**Defendants' Exhibit 549.**

Know All Men By These Presents:

That F. C. Hubbell, of the County of Polk and State of Iowa in consideration of the sum of Fourteen Hundred Dollars in hand paid by The Des Moines Union Railway Company of Polk County, and State of Iowa, do hereby Sell and Convey unto the said The Des Moines Union Railway Company the following described premises situated in the County of Polk and State of Iowa, to-wit:

That portion of Lot four (4) Official Plat of the South East quarter of Section Two (2) Township seventy-eight (78) Range twenty-four (24) lying south of the Des Moines Union Railway Company's right of way, being about three and one half acres.

And I do hereby covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever claiming by, through or under us.

And Mary W. Hubbell, wife of F. C. Hubbell, hereby relinquishes her right in and to the above described premises.

Signed this 23rd day of December A. D. 1892.

F. C. HUBBELL  
MARY W. HUBBELL.

Duly acknowledged December 23rd, 1892. Filed for record in the office of the Recorder of Polk County, Iowa on the 23rd day of December 1892, and recorded in Book 297, Page 332 of the records in said office.

1246

**Defendants' Exhibit 550.**

**An Ordinance.**

Granting to the Des Moines Union Railway Company the right to lay, maintain and operate a single or double side

track on the north side of Mulberry Street from the west side of Sixteenth Street to the east side of Fourteenth Street.

Section 1.—Be it Ordained by the City Council of the City of Des Moines:—

That there is hereby granted to the Des Moines Union Railway Company the right to lay, maintain and operate a single or double side track on the north side of Mulberry Street from the west side of Sixteenth Street to the east side of Fourteenth Street.

Sec. 2. Be it further ordained that this grant shall not be effective unless the owners of the abutting property, abutting on said Mulberry Street in front of which property said side tracks or switch shall be laid, shall be compensated for or shall release all claims for damages of every kind or nature accruing or which may accrue to them, by reason of the laying, maintaining and operating of said switch or side tracks along said street.

Sec. 3. This ordinance shall be in force and of effect on and after its passage and publication as by law provided.

Passed January 18, 1892.

J. H. CAMPBELL,

Mayor.

Approved January 22, 1892.

Attest:

R. B. Dennis,

City Clerk.

1247

### **Defendants' Exhibit 551.**

Know all Men by These Presents: That I, F. Cooper, (a single man) of the County of Polk and State of Iowa, in consideration of the sum of Four Hundred & fifty Dollars in hand paid by Des Moines Union Ry. Co. of Polk County, and State of Iowa, do hereby Sell and Convey unto the said Des Moines Union Ry. Co. the following described premises situated in the County of Polk and State of Iowa, to-wit:

Lots No. ten (10) and Eleven (11) in D. Rees's Sub Div of Lot No. thirty (30) Brooks & Companys Addition to the City of Des Moines, Polk County, Iowa.

And I do hereby covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever claiming by, through or under me.

Signed this 28<sup>th</sup> day of December, A. D. 1892.

F. COOPER.

Duly acknowledged December 28, 1892. Filed for record in the office of the Recorder of Polk County, Iowa, on the 4th day of March, 1893, and recorded in Book #301, Page #146 of the records in said office.

### Defendants' Exhibit 552.

1248

Know all Men by These Presents:

That F. C. Hubbell of the County of Polk and State of Iowa in consideration of the sum of Thirteen Thousand Dollars in hand paid by The Des Moines Union Railway Co. of Polk County, and State of Iowa, do hereby Sell and Convey unto the said Des Moines Union Railway Co. the following described premises situated in the County of Polk and State of Iowa, to-wit:

The North one third ( $1/3$ ) of Lot number eight (8) and the South one third ( $1/3$ ) of Lot number nine (9) all in Block number thirty (30) in the Original Town of Fort Des Moines now in the city of Des Moines, Iowa.

And I do hereby covenant to Warrant and Defend the said premises against the lawful claims of all persons, whomsoever claiming by, through or under us.

And Mary W. Hubbell, wife of F. C. Hubbell hereby relinquishes her right in and to the above described premises.

Signed this 13th day of April, A. D. 1893.

F. C. HUBBELL,

MARY W. HUBBELL.

Duly acknowledged April 14, 1893. Filed for record in the office of the Recorder of Polk County, Iowa, on the 21st day of April, 1893, and recorded in Book 301, Page 515 of the records in said office.

### Defendants' Exhibit 553.

1249

Book 294  
Page 326

James F. How, Trustee,

to

Des Moines Union Ry. Company

Quit Claim Deed.

This Indenture made on the 9th day of August, A. D. 1893, by and between James F. How, Trustee of the city of St. Louis, state of Missouri, party of the first part, and the Des Moines

Union Ry. Company of the state of Iowa, party of the second part, Witnesseth: That

The said party of the first part, in consideration of the sum of one dollar to him paid by the said party of the second part, the receipt of which is hereby acknowledged, does by these presents remise, release and forever quit-claim unto the said party of the second part the following described lots, tracts, or parcels of land lying, being, and situated in the county of Polk and state of Iowa, to-wit:

Strip of land fifty (50) feet in width on the north of and adjoining the right of way of the Chicago, Rock Island & Pacific Railroad Company in Lot number two (2) of the Official Plat of the N. W.  $\frac{1}{4}$  of the N. E.  $\frac{1}{4}$  of Section eight (8) in Township seventy-eight (78) north, range twenty-four (24) West of the 5th P. M. Iowa.

To have and to hold the same, with all rights, immunities privileges and appurtenances thereto belonging, unto the said party of the second part and its successors and assigns forever, so that neither the said party of the first part nor his heirs, nor any other person or persons for him or in 1250 his name or behalf, shall or will hereafter claim or demand any right or title to the aforesaid premises, or any part thereof, but they and every of them, shall, by these presents be excluded and forever barred.

In Witness Whereof the said party of the first part has hereto set his hand and seal the day and year first above written.

JAMES F. HOW, Trustee.

(Seal)

Signed, sealed and delivered  
in the presence of us.

(Acknowledgment)

1253

### **Defendants' Exhibit 554.**

#### **Deed.**

Know All Men By These Presents:

That the City of Des Moines, by Isaac L. Hillis, Mayor and D. A. Kooker, City Clerk of the City of Des Moines, Polk County, Iowa, in consideration of the sum of One Dollar, in hand paid by the Des Moines Union Railway Company of Polk County and State of Iowa, does hereby Quit Claim unto the Des Moines Union Railway Company, all its right, title and interest in and to the following described real estate situated in Des Moines, Polk County, Iowa, to-wit:

## THE DES MOINES UNION RY. CO., ET AL.

All that part of West Thirteenth street in Keene & Poindexter's Addition to the City of Des Moines, which lies South of the South line of Cherry street; also so much of Cherry street in said Keene & Poindexter's Addition, as lies west of the west line of said Thirteenth street in said City of Des Moines.

Provided, however, and this conveyance is made upon the express condition, that unless the said Des Moines Union Railway Company, itself or its assigns, shall actually use said grounds for shop purposes within two years, this ordinance shall become ineffective and inoperative.

This deed is made in pursuance of an ordinance passed by the City Council December 14, 1894.

(Seal) THE CITY OF DES MOINES, IOWA,  
By Isaac L. Hillis, Mayor.

D. A. KOOKER,

City Clerk.

1254 Duly acknowledged December 26, 1894, Filed for record in the office of the Recorder of Polk County, Iowa, on the 28th day of December 1894, and recorded in Book 294, Page 524 of the records in said office.

1255

### Defendants' Exhibit 555.

Know All Men By These Presents, That F. M. Hubbell and Frances E. Hubbell husband and wife of the County of Polk and State of Iowa in consideration of the sum of Two Hundred Dollars, in hand paid by The Des Moines Union Railway Company of the County of Polk and State of Iowa do hereby Quit Claim unto the said Des Moines Union Railway Company all our Right, Title and Interest in and to the following described premises, situated in Polk County, and State of Iowa, to-wit:

All that portion of lot one (1) of the Official Plat of the northeast quarter ( $\frac{1}{4}$ ) of section eleven (11) township seventy eight (78) range twenty four (24) west of the Fifth P. M., Iowa, which lies north and east of the right-of-way of the Chicago, Rock Island & Pacific R'y (Winterset Branch) including in this conveyance, all of the streets and alleys in that portion of Jacks' Plat which is laid out and platted on the above described land, except therefrom, however, the following lots in what is known as Jacks' Plat,  
lots three (3) and four (4) in block eight (8), except the west fifty (50) feet thereof; lots five (5) six (6) seven (7) ten (10)

eleven (11) twelve (12) thirteen (13) fourteen (14) fifteen (15) and sixteen (16) in block eight (8) except the west fifty (50) feet thereof; lots five (5) eight (8) and nine (9) in block six (6); lots seventeen (17) eighteen (18) and nineteen (19) in block eight (8); lots one (1) two (2) three (3) four (4) five (5) six (6) seven (7) eight (8) nine (9) ten (10) eleven (11) twelve (12) thirteen (13) fourteen (14) fifteen (15) sixteen (16) seventeen (17) in block seven (7), except the west fifty (50) feet thereof, and lots twenty one (21) twenty two (22) twenty three (23) twenty seven (27) thirty two (32) thirty three (33) and thirty four (34) in block seven (7) .....

And the said Frances E. Hubbell hereby relinquishes her right in and to the above described premises.

Signed this fifth day of February A. D. 1895,

F. M. HUBBELL,

FRANCES E. HUBBELL.

Duly acknowledged March 21, 1895. Filed for record in the office of the Recorder of Polk County, Iowa, on the 23d day of March, 1895, and recorded in Book 331, Page 2, of the records in said office.

1257

### **Defendants' Exhibit 556.**

This Memorandum of Agreement made this 9th day of May, 1895, between the Des Moines Union Railway Company, the Des Moines Elevator Company, both corporations organized and existing under the laws of the State of Iowa, and L. Mott, Witnesseth: That

Whereas the Des Moines Elevator Company owns Lot three (3) in Block seven (7), Hoxie's Addition to the City of Des Moines, upon which it has constructed a grain elevator; and

Whereas L. Mott has made application to the City of Des Moines for a franchise to construct a railway track or tracks upon, over and along the alley running east and west through Block seven (7) of H. M. Hoxie's Addition to Des Moines, and also to the east side of Eighth Street at its intersection with the said alley, now included within the City of Des Moines; and

Whereas the track in question will pass the elevator of the said Des Moines Elevator Company, and will be of great value to the said Elevator Company in loading and unloading and switching cars to said Elevator

Now Therefore, in consideration of the premises, it is agreed as follows between all the parties:

1st. Said L. Mott agrees to assign to the Des Moines Union Railway Company all his rights, title and interest acquired by or granted to him by virtue of said proposed ordinance, or as amended, as soon as the same has become a law.

2nd. The Des Moines Elevator Company hereby grants to the said Des Moines Union Railway Company the right of way over and across that part of Lot three (3) in Block seven (7),

H. M. Hoxie's Addition, where the said Des Moines Union Railway Company has constructed its tracks, so long as said lot is used for elevator purposes.

3rd. The said Des Moines Elevator Company also hereby releases all claims for abutting damages on account of the said track of the Des Moines Union Railway Company or L. Mott now or hereafter to be constructed through the east and west alley in Block seven (7), Hoxie's Addition to Des Moines.

4th. The said Des Moines Union Railway Company hereby agrees to connect the said tracks herein mentioned with its system of tracks in Des Moines as expeditiously as practicable, and maintain said connection so long as said lot shall be used for elevator purposes.

Signed in triplicate this 9th day of May, 1895.

**DES MOINES UNION RAILWAY  
COMPANY,**

(Seal)

By F. C. Huddell, President.

Attest:

F. M. Huddell,  
Secretary.

**DES MOINES ELEVATOR COMPANY,**

(Seal)

By C. F. McCarty, President.

Attest:

H. A. Lockwood,  
Secretary.

**LAMON MOTT.**

1259

### **Defendants' Exhibit 557.**

An Ordinance granting to L. Mott and his assigns, the right to construct and operate a railway track, or tracks, upon the east and west alley through block 7 of H. M. Hoxie's Addition to Des Moines, and also to the east side of 8th Street at its intersection with said alley.

Be it Ordained by the City Council of the City of Des Moines:

Sec. 1. That there is hereby granted to L. Mott and his assigns the right to construct and operate a railway track, over and along the portion of the north part of the alley running east and west through block 7 of H. M. Hoxie's Addition to Des Moines, beginning at the west end of said alley at 9th Street; thence east to the west line of lot 3 in block 7 of H. M. Hoxie's Addition. Said track to be so laid as not to interfere with the present tracks of the Des Moines & Kansas City Railway Company, as now laid in said alley, for the use thereof.

Sec. 2. Before constructing said track or tracks, the said L. Mott or his assigns, shall either procure the consent of the property owners abutting upon the part of the alley so to be occupied, or shall assess and pay their damages as provided by law.

Sec. 3. This ordinance shall be in force and effect from 1260 and after its passage and publication, the publication to be without expense to the city.

Approved May 10th 1885.

1261

### **Defendants' Exhibit 558.**

Know All Men By These Presents: That S. B. Tuttle & Almira K. Tuttle, husband & wife of Polk County, and State of Iowa, in consideration of the sum of Twelve Hundred Dollars, in hand paid by the Des Moines Union Railway Company of Polk County, and State of Iowa do hereby Sell and Convey unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, to-wit:

A strip of ground twelve (12) feet wide north of, parallel to and adjoining the right of way of the Des Moines & Kansas City Railway, said strip extending from the west side of west Ninth Street to the west line of Official Plat Lot number ten (10) in the North West quarter of Section nine (9) Township seventy eight (78) Range twenty four (24) Said strip of ground being 435 feet long, extending across lots one (1) & two (2) in block sixteen (16) of Hoxie's Addition to the town of Fort Des Moines and across said Official Plat Lot ten (10) above referred to.

And we hereby covenant with the said Des Moines Union Railway Company that we hold said premises by good and perfect title; that we have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And we covenant to Warrant and Defend The said premises against the lawful claims of all persons whomsoever.

And the said Almira K. Tuttle hereby relinquishes her right in and to the above described premises.

Signed the 14<sup>th</sup> day of May A. D. 1895.

S. R. TUTTLE

ALMIRA K. TUTTLE.

Duly acknowledged May 14, 1895, Filed for record in the office of the Recorder of Polk County, Iowa, on the 15th day of May, 1895, and recorded in Book 329, Page 317 of the records in said office.

1263

### Defendants' Exhibit 355.

Know All Men By These Presents: That Edwin Whitworth of Chester County, England in consideration of the sum of Five hundred Dollars in hand paid by the Des Moines Union Railway Company a corporation of the State of Iowa do hereby Sell And Convey unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, being a part of Lot one (1) of the official plat of Lots fifty-two (52) fifty-three (53) and fifty-four (54) of Brooks and Co.'s Addition to the city of Des Moines, bounded and described as follows, to-wit: Commencing at the intersection of the north line of the right of way of the Chicago, Burlington & Quincy Railroad Company with the east line of said lot one (1) of the official plat of lots fifty-two (52) fifty-three (53) and fifty-four (54) of Brooks and Co.'s Addition to the City of Des Moines, said intersection being at the southeast corner of said lot one (1), thence north along the east line of said lot one (1) to the intersection of said east line of said lot one (1) with a line parallel with the north line of the said right of way of said C. B. & Q. R. R. Co. and fifty (50) feet therefrom, thence northwesterly parallel with said north line of said C. B. & Q. R. R. Co.'s right of way and fifty (50) feet therefrom to a point fifty (50)

feet east of the east line of the fourteen feet right of way of the Des Moines Union Railway Company as now located between lots one (1) and two (2) in said official plat above named, thence north parallel with the east line of said right of way of said Des Moines Union Ry. Co. and fifty (50) feet therefrom to the north line of said lot one (1), being the south line of Scott Street, thence west along the north line of said lot one (1), fifty (50) feet to the east line of said right

of way of said Des Moines Union Ry. Co., thence south along the east line of said right of way of said Des Moines Union Ry. Co. to the north line of the right of way of said C. B. & Q. R. R. Co. above mentioned, thence southeasterly along said right of way of said C. B. & Q. R. R. Co. to the place of beginning.

And I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title; that I have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And I covenant to Warrant And Defend the said premises against the lawful claims of all persons whomsoever.

And Elizabeth Talkes Whitworth, wife of said Edwin  
1265 Whitworth hereby relinquishes her right in and to the above described premises.

Signed the 14 day of August A. D., 1895.

EDWIN WHITWORTH

By Elizabeth Talkes Whitworth his  
Attorney in fact.

ELIZABETH TALKES WHITWORTH.

Witness.

Walter Cunliffe,  
Solicitor Liverpool, England.

W. J. Sules,  
U. S. Consulate,  
Liverpool.

Duly acknowledged August 14th A. D., 1895. Filed for record in the office of the Recorder of Polk County, Iowa, on the 28th day of August 1895, and recorded in Book 337, Page 237 of the records in said office.

1266

### **Defendants' Exhibit 560.**

For the consideration of Two Thousand Dollars (\$2,000.00) the Chicago, Rock Island & Pacific Railway Company a corporation organized and existing under the laws of the States of Illinois and Iowa, hereby quit claims unto the Des Moines Union Railway Company, a corporation existing under the laws of the State of Iowa, all its right, title and interest in and to the following described tract of land, to-wit: A strip of land contained within the metes and bounds as follows: Beginning at a point on the West line of West Twelfth

1957

Street, which is also the East line of Block number Thirty-one (31) in Keene and Poindexter's Addition to the City of Des Moines, which point is Thirty-two (32) feet northwardly from the center line of the main track of the railway of the said Chicago, Rock Island & Pacific Railway Company, formerly the main track of the Chicago, Rock Island & Pacific Railway Company, on a line drawn at right angles with a tangent to said center line as now located and constructed; thence in a westwardly direction on a line thirty-two (32) feet north of and parallel with said center line of said railway of said Chicago, Rock Island & Pacific Railway Company, following the alignment and curvature of said center line, five thousand and thirty (5030) feet to a point about thirty (30) feet west of the west boundary line of the east half ( $1\frac{1}{2}$ ) of the North West quarter ( $\frac{1}{4}$ ) of Section Eight (8), Township Seventy-eight (78) North, Range Twenty-four (24) West of the Fifth (5th) Principal Meridian; thence northwardly at right angles eighteen (18) feet to the north line of the right of way of the 1267 said Chicago, Rock Island & Pacific Railway Company; thence eastwardly with the said north line of said right of way to a point on the said West line of said West Twelfth Street eighteen (18) feet North of the place of beginning; thence eighteen (18) feet south to the place of beginning, containing two and nineteen one hundredths (2.19) acres, more or less.

The intention of these presents being to convey to said Des Moines Union Railway Company all right, title and interest in and to so much of the right of way of the Chicago, Rock Island & Pacific Railway Company lying within the east and west boundaries hereinbefore set forth as is situated more than thirty-two (32) feet northwardly from the present center line of the main track of the railway of the Chicago, Rock Island & Pacific Railway Company, measured at right angles with said center line.

In Testimony Whereof the said Chicago, Rock Island & Pacific Railway Company has caused this indenture to be signed by its Vice President and attested by its Assistant Secretary, with its corporate seal affixed, this 10th day of October A. D. 1895.

THE CHICAGO ROCK ISLAND & PACIFIC  
RAILWAY COMPANY.

(Seal)

By W. G. Purdy, Vice President.

Attest:

J. F. Phillips,  
Asst. Secretary.

44—Ex.

State of Illinois,  
County of Cook—ss.

Be it Remembered That on the 10th day of October A. D. 1895, the undersigned Wm. E. Bent, a Notary Public in and for said County, personally appeared W. G. Purdy and 1268 J. F. Phillips, to me personally known to be the identical persons whose names are signed to the foregoing instrument as Vice President and Asst. Secretary of the Chicago, Rock Island & Pacific Railway Company, the grantor therein named, and acknowledged the said instrument to be the voluntary act and deed of the said grantor, by them as its officers thereto duly authorized, voluntarily done and executed.

Witness my hand and Notarial seal this 10th day of October A. D. 1895.

(Seal)

WM. E. BENT,  
Notary Public.

(Stamped on back of second page):

"Approved as to Form,

W. T. Rankin,  
Ass't General Attorney."

269

### Defendants' Exhibit 561.

Know All Men By These Presents: That J. F. Vincent and Sallie M. Vincent, his wife, of ..... County, and State of Illinois in consideration of the sum of One dollar and other valuable consideration, in hand paid by the Des Moines Union Railway Company of Polk County and State of Iowa do hereby Sell and Convey unto the said Des Moines Union Railway Co. the following described premises, situated in the County of Polk, and State of Iowa, to-wit:

A strip of ground twenty six (26) feet wide off from the north side of Lots two (2) and four (4) of Official Plat of Lots fifteen (15) sixteen (16) seventeen (17) and eighteen (18) of Younts Addition of Out Lots in the City of Des Moines.

And we hereby covenant with the said Des Moines Union Railway Co. that we hold said premises by good and perfect title; that we have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And we covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever.

And the said Sallie M. Vincent hereby relinquishes her right in and to the above described premises.

Signed the 7th day of September A. D. 1895.

1270

J. F. VINCENT  
SALLIE M. VINCENT.

Only acknowledged December 14, 1895. Filed for record in the office of the Recorder of Polk County, Iowa, on the 17th day of December, 1895, and recorded in Book #340, Page 152 of the records in said office.

1271

**Defendants' Exhibit 562.**

Know All Men By These Presents: That I, F. M. Hubbell of the County of Polk and State of Iowa, in consideration of the sum of One Dollar in hand paid by the Des Moines Union Railway Company, a railway corporation organized and existing under the Laws of the State of Iowa, do hereby grant unto the said Des Moines Union Railway Company, subject to the conditions and limitations hereinafter set forth, the right-of-way over the following described premises situated in the County of Polk and State of Iowa, to-wit:

All that certain piece or parcel of land 13 feet in width the center line of which is described as follows;

Beginning at a point on the easterly line of a 100-ft. right-of-way belonging to the Des Moines Union Railway Company (being a 100-ft. strip off from the west side of lots two (2) and eight (8) of the Official Plat of the West half of Section 9, Township 78, Range 24) where the easterly line of same is intersected by the center line of the track leading to and across 9th Street. Said point is also about 1177.4 feet west of the westerly side line of said 9th Street and about 450.7 feet south of the southerly side line of Tuttle Street extended. From said point running along the center line of said track leading to and across South 9th Street, a distance of 1647.8 feet to the westerly side of a 13-ft. right-of-way belonging to said Des Moines Union Railway Company, the center line of which is 136½ feet easterly from and parallel with the easterly side line of said 9th Street. Excepting therefrom so much of the same as lies within the limits of the right-of-way of the Keokuk & Western Railroad Company, and within the limits of said 9th Street.

Said Hubbell reserves the right to open streets and alleys across the right-of-way herein granted, at such points as he shall desire.

The above granted right-of-way is granted only for the construction, maintenance, and operation of a side track and not for a main track. Said track is to be laid, maintained and operated upon said premises so that the Des Moines Union Railway Company can obtain access to manufactories, warehouses, and other industries located upon the land belonging to said Hubbell, in said Section 9, Township 78, Range 24, and it is not to be used for any other purpose than a side track, and it is not to be used as a side track for general railway purposes, save in such manner and at such times as will in no way interfere with its use as a side track for the accommodation of manufactories, ware houses, and other industries located upon the aforementioned land belonging to said Hubbell, and it is expressly understood and agreed that

the right-of-way herein granted is limited to the purposes and for the objects hereinbefore set forth, and I

hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title, and that I have good right and lawful authority to grant the above mentioned right-of-way, and that the said premises are free and clear of all liens and incumbrances whatsoever, and I covenant to Warrant and Defend the right-of-way hereby granted against the lawful claims of all persons whomsoever.

And Frances E. Hubbell, wife of F. M. Hubbell, hereby relinquishes her right in and to the above described right-of-way.

Signed this 1st day of October 1895.

F. M. HUBBELL

FRANCES E. HUBBELL

By F. C. Hubbell her Atty-in-fact.

Duly acknowledged October 1, 1895. Filed for record in the office of the Recorder of Polk County, Iowa, on the 7th day of June, 1902, and recorded in Book 438, Page 559 of the records in said office.

1274

### **Defendants' Exhibit 563.**

Know all Men by These Presents:

That We Harry West & Mary E. West his wife of Polk County and State of Iowa in consideration of the sum of Five Hundred (500) Dollars, in hand paid by The Des Moines Union Railway Company of Polk County and State of Iowa do hereby Sell and Convey unto the said Des Moines Union Railway Company the following described premises situated in the County of Polk and State of Iowa, to-wit:

A strip of ground 15 feet in width off the North side of Lot 3 of the Official Plat of lots 55 and 56 of Brooks & Co.'s Addition to the City of Des Moines, described as follows:—

Commence at the Northwest corner of Lot 3 of said Official Plat of Lots 55 and 56 of Brooks & Co.'s Addition to the City of Des Moines thence South along the West line of said Lot 3 to a point where a line drawn parallel with the North line of said Lot 3 and 15 feet therefrom would intersect said West line of Lot 3; thence Southeasterly parallel with said North line of said Lot 3 and 15 feet therefrom; to the South line of said Lot 3; thence East along the South line of said Lot 3 to a point in the Southeast corner of said Lot, 3, being the point of intersection of the South line of Lot 3 with the North line of said Lot 3, thence Northwesterly along the North line of Lot 3 to place of beginning.

1275 And hereby covenant with the said Des Moines Union Railway Company that we hold said premises by good and perfect title; that we have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And we covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever.

And the said Mary E. West hereby relinquishes her right in and to the above described premises.

Signed the Twenty Ninth day of June, A. D. 1896.

HARRY WEST  
MARY E. WEST.

Duly acknowledged June 29th, 1896. Filed for record in the office of the Recorder of Polk County, Iowa, on the 30th day of June, 1896, and recorded in Book 346, Page 399 of the records in said office.

1276

### **Defendants' Exhibit 564.**

Know all Men by These Presents: That Matilda K. Sypher (a widow) of Dallas County, and State of Texas in consideration of the sum of Eleven Thousand Five Hundred Dollars, in hand paid by The Des Moines Union Railway Company of Polk County, and State of Iowa, do hereby Sell and Convey unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, to-wit:

Lot number one (1) in block number four (4) in the Original Town of Fort Des Moines, now in the corporate limits of

the city of Des Moines, Iowa, subject to a mortgage made by me to the Equitable Life Insurance Company of Iowa dated January 16-1896 for Seven thousand five hundred dollars and recorded in book 321 on page 54, Polk County records.

And I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title; that I have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever, except said mortgage.

And I covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever, except said mortgage.

1277 Signed the first day of September, A. D. 1896.

MATILDA K. SYPHER.

Duly acknowledged September 1, 1896. Filed for record in the office of the Recorder of Polk County, Iowa, on the 3d day of September, 1896, and recorded in Book 352, Page 25 of the records in said office.

1278

### **Defendants' Exhibit 565.**

Know all Men by These Presents: That F. M. Hubbell & Frances E. Hubbell, his wife, of Polk County, and State of Iowa in consideration of the sum of Twelve Thousand Seven hundred & fifty Dollars, in hand paid by Des Moines Union Railway Company of Polk County, and State of Iowa, do hereby Sell and Convey unto the said Des Moines Union Railway Co., the following described premises, situated in the County of Polk and State of Iowa, to-wit:

Lot number four (4) and the east half of lot number five (5) in block number nine (9) of Hoxies Addition to the town of Fort Des Moines now in the city of Des Moines.

This conveyance is made subject to a lease made to the Carbondale fuel company dated March 27-1896, for a portion of said ground and which lease expires May 1, 1906.

And we hereby covenant with the said Des Moines Union Railway Company that we hold said premises by good and perfect title; that we have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And we covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever.

And the said Frances E. Hubbell, hereby relinquishes her right in and to the above described premises.

1279 Signed the 24th day of November A. D., 1896.

F. M. HUBBELL,  
FRANCES E. HUBBELL.

Duly acknowledged November 24, 1896. Filed for record in the office of the Recorder of Polk County, Iowa, December 5, 1896, and recorded in Book 352, Page 389 of the records in said office.

1280

### **Defendants' Exhibit 566.**

**Know All Men By These Presents:**

That Edwin Whitworth and Elizabeth Talkes Whitworth, husband and wife, of the County of Chester and State of England, in consideration of the sum of One Dollar, in hand paid by The Des Moines Union Railway Company, of the County of Polk and State of Iowa do hereby Quit Claim unto the said The Des Moines Union Railway Company, all our right, title and interest in and to the following described premises, situated in Polk County and State of Iowa, to-wit:

A strip of ground 15 feet in width off the north side of Lot three (3) of the Official Plat of Lots 55 and 56 of Brooks & Co.'s Addition to the city of Des Moines, described as follows: Commence at the Northwest corner of lot 3 of said Official Plat of lots 55 and 56 of Brooks & Co.'s Addition to the city of Des Moines, thence south along the west line of said lot three (3) to a point where a line drawn parallel with the north line of said lot 3, and 15 feet therefrom would intersect said west line of lot 3, thence southeasterly parallel with said north line of said lot 3 and fifteen (15) feet therefrom to the south line of said lot 3, thence East along the south line of said lot 3 to a point in the southeast corner of said lot 3 being the point of intersection of the south line of Lot 3 with the north line of said lot 3, thence northwesterly along the north line of lot 3 to the place of beginning. We also hereby release the above property from a certain mortgage made by Jas. H. Windsor & wife to Edwin Whitworth dated September 12-1889 and recorded in book No. 233, page 54, Polk County records,  
1281 and which mortgage is still owned by Edwin Whitworth.

And the said Elizabeth Talkes Whitworth hereby relinquishes her right in and to the above described premises.

Signed this 11th day of January, A. D. 1897. (L.E.U.)

**EDWIN WHITWORTH,**

By his Attorney Elizabeth Talkes Whitworth.

**ELIZABETH TALKES WHITWORTH**

Duly acknowledged January 11th, 1897. Filed for record in the office of the Recorder of Polk County, Iowa, on the 27th day of January, A. D., 1897, and recorded in Book 331, Page 338 of the records of said office.

1282

**Defendants' Exhibit 567.**

Know All Men By These Presents:

That F. M. Hubbell and Frances E. Hubbell, husband and wife, of the County of Polk and State of Iowa, in consideration of the sum of One Dollar, in hand paid by Des Moines Union Railway Company of the County of Polk and State of Iowa do hereby Quit Claim unto the said Des Moines Union Railway Company all their right, title and interest in and to the following described premises, situated in Polk County and State of Iowa, to-wit:

Lot number Five (5) of the Official Plat of Keene and Pindexter's Addition to the city of Des Moines, Iowa, as platted April 9th, 1897.

And the said Frances E. Hubbell hereby relinquishes her right in and to the above described premises.

Signed this 22nd day of February, 1898.

**F. M. HUBBELL,**

**FRANCES E. HUBBELL.**

Duly acknowledged February 22, 1898. Filed for record in the office of the Recorder of Polk County, Iowa, March 17th, 1898, and recorded in Book 331, Page 545 of the records in said office.

1283

**Defendants' Exhibit 568.**

Know All Men By These Presents: That F. M. Hubbell, Trustee, of Polk County, and State of Iowa, in consideration of the sum of Twelve Thousand Five Hundred Dollars, in hand paid by Des Moines Union Railway Company of Polk County, and State of Iowa, do hereby Sell And Convey unto the said Des Moines Union Railway Company the following described premises situated in the County of Polk and State of Iowa, to-wit:

The north forty-four (44) feet of lot number six (6) in block number fifteen (15) of the Original town of Fort Des Moines now in the city of Des Moines.

And I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title; that I have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And I covenant to Warrant And Defend the said premises against the lawful claims of all persons whomsoever.

Signed the 2nd day of May A. D. 1898.

F. M. HUBBELL, Trustee.

Duly acknowledged May 2, 1898. Filed for record in the office of the Recorder of Polk County, Iowa, on the 29th day of December, 1898, and recorded in Book 370, Page 424 of the records in said office.

### Defendants' Exhibit 569.

1284

Know All Men By These Presents: That F. M. Hubbell and Frances E. Hubbell his wife, of Polk County, and State of Iowa, in consideration of the sum of Twelve Thousand Five Hundred Dollars, in hand paid by Des Moines Union Railway Company of Polk County, and State of Iowa, do hereby Sell And Convey unto the said Des Moines Union Railway Co. the following described premises, situated in the County of Polk and State of Iowa, to-wit:

The north forty-four (44) feet of lot number three (3) in block Number fifteen (15) of the Original town of Fort Des Moines now in the city of Des Moines, Iowa.

And we hereby covenant with the said Des Moines Union Railway Company that we hold said premises by good and perfect title; that we have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And we covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever.

And the said Frances E. Hubbell hereby relinquishes her right in and to the above described premises.

Signed the 2nd day of May, A. D. 1898.

1285

F. M. HUBBELL.  
FRANCES E. HUBBELL.

Duly acknowledged May 2nd, 1898. Filed for record in the office of the Recorder of Polk County, Iowa, on the 28th day of December, 1898, and recorded in Book 370, Page 423 of the records in said office.

1286

**Defendants' Exhibit 570.**

§239. Resolved by the City Council of the City of Des Moines, that the Des Moines Union Railroad Company be authorized to remove the present curb on the north side of Cherry Street, from Fifth Street westward to the end of the structure now being erected for a Union Station, and to put in a line of curb 16 feet from, and parallel with the lot line on the south side of Cherry Street, from the corner of Fifth Street to the west line of the structure now being erected for a Union Station, the said curb to be joined to the curbing on the west side of Fifth Street by a sweeping curve, with a radius of not less than ten feet; provided the same shall be done without expense to the City of Des Moines.

Be it Further Resolved, That the grade of the top of the curb on the west side of Fifth Street be established at 28 feet above the City datum at the center of Cherry Street; that the grade of said curb, at a point 110 feet south of the center of Cherry Street, be 27.5 feet above the City datum; that the grade of said curb 167 feet south of the center of Cherry Street be 26.9 ft. above the City datum, and that the grade of said curb at the center of Wagner Street be as heretofore established, to-wit: 25.22 feet above the City datum.

Adopted November 3, 1898.

1287

**Defendants' Exhibit 571.**

Know all Men by These Presents:

That I, F. M. Hubbell, of the County of Polk and State of Iowa, in consideration of the sum of Six Thousand Three Hundred Dollars (\$6,300.00) in hand paid by the Des Moines Union Railway Company, a railway corporation organized and existing under the laws of the State of Iowa, do hereby grant unto the said Des Moines Union Railway Company, subject to the conditions and limitations hereinafter set forth, a right of way over the following described premises situated in the County of Polk and State of Iowa, to-wit:

A strip of ground fourteen (14) feet wide off the north side of Lots three (3) and six (6) in Block nine (9), and a strip of ground fourteen (14) feet wide off the north side of Lot six (6) in Block four (4), all in the Original Town of

## THE DES MOINES UNION RY. CO., ET AL.

Foot Des Moines, now included in and forming a part of the City of Des Moines, Iowa.

The above granted right of way is a right of way only for the construction, maintenance and operation of a side-track, and not for a main track. Said track is to be laid, maintained and operated upon said premises so that the Des Moines Union Railway Company can obtain access to manufactories, warehouses or other industries located upon said Lots three (3) and six (6) in Block nine (9), and upon said Lot six (6) in Block four (4), and it is not to be used for any other purpose than as a side-track, and is not to be used as a side-track for general railway purposes, save in such manner and at such times as will in no way interfere with its use as a side-track for the accommodation of manufactories, warehouses, or other industries located upon the afore-mentioned lots; and it is expressly agreed and understood that the right of way herein granted is limited to the purposes and for the objects above set forth.

And I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title, and that I have good right and lawful authority to grant the above mentioned right of way, and that the said premises are free and clear of all liens and encumbrances whatsoever; and I covenant to Warrant and Defend the right of way hereby granted against the lawful claims of all persons whomsoever.

And Frances E. Hubbell, wife of said F. M. Hubbell, hereby relinquishes her right in and to the above described right of way.

Signed this 15th day of Feb'y, 1899.

F. M. HUBBELL.

FRANCES E. HUBBELL.

4 Revenue stamps.

Duly acknowledged Feb'y 15th, 1899. Filed for record in the office of the Recorder of Polk County, Iowa, on the 19th day of September, 1899, and recorded in Book 375, Page 581 of the records in said office.

1289

### Defendants' Exhibit 572.

Know all Men by These Presents:

That I, F. M. Hubbell, of the County of Polk and State of Iowa, in consideration of the sum of Six Thousand Three Hundred Dollars (\$6,300.00) in hand paid by the Des Moines Union Railway Company, a railway corporation organized

and existing under the laws of the State of Iowa, do hereby grant unto the said Des Moines Union Railway Company, subject to the conditions and limitations hereinafter set forth, a right of way over the following described premises situated in the County of Polk and State of Iowa, to-wit:

A strip of ground fourteen (14) feet wide off the north side of Lots three (3) and six (6) in Block nine (9), and a strip of ground fourteen (14) feet wide off the north side of Lot six (6) in Block four (4), all in the Original Town of Fort Des Moines, now included in and forming a part of the City of Des Moines, Iowa.

The above granted right of way is a right of way only for the construction, maintenance and operation of a side-track, and not for a main track, Said track is to be laid, maintained and operated upon said premises so that the Des Moines Union Railway Company can obtain access to manufactories, warehouses or other industries located upon said Lots three

1290 (3) and six (6) in Block nine (9), and upon said Lot six (6) in Block four (4) and it is not to be used for any other purpose than as a side-track, and is not to be used as a side-track for general railway purposes, save in such manner and at such times as will in no way interfere with its use as a side-track for the accommodation of manufactories, warehouses or other industries located upon the aforementioned lots; and it is expressly agreed and understood that the right of way herein granted is limited to the purposes and for the objects above set forth.

And I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title, and that I have good right and lawful authority to grant the above mentioned right of way, and that the said premises are free and clear of all liens and encumbrances whatsoever; and I covenant to Warrant and Defend the right of way hereby granted against the lawful claims of all persons whomsoever.

And Frances E. Hubbell, wife of said F. M. Hubbell, hereby relinquishes her right in and to the above described right of way.

Signed this 15th day of Feb'y. 1899.

F. M. HUBBELL  
FRANCES E. HUBBELL.

Know All Men By These Presents: That I, F. M. Hubbell of the County of Polk and State of Iowa, in considera

tion of the sum of one dollar (\$1) in hand paid by the Des Moines Union Railway Company a railway corporation organized and existing under the Laws of the State of Iowa, do hereby grant unto the said Des Moines Union Railway Company, subject to the conditions and limitations hereinafter set forth, a right-of-way over the following described premises situated in the County of Polk and State of Iowa, to-wit:

A strip of ground thirteen (13) feet wide lying east of and parallel with West Ninth Street, and distant therefrom one hundred and thirty (130) feet, the north end of said strip being the north line of lot fifty-seven (57) of the "Official Plat of the east three-quarters of Section nine (9) Township seventy-eight (78) Range twenty-four (24) West 5th P. M., north of the Racoon River, and south of the south line of the Town of Fort Des Moines, and Hoxie's Addition, including lot four (4) block sixteen (16) Hoxie's Addition" and the south end is distant from the north end two thousand (2000) feet. There is excepted from this instrument two streets, each fifty (50) feet wide, known as Tuttle Street and Murphy Street, crossing this right-of-way.

Said Hubbell reserves the right to open other streets and alleys across the right-of-way herein granted at such 122 points as he shall desire.

The above granted right-of-way is a right-of-way only for the construction, maintenance and operation of a side track, and not for a main track. Said track is to be laid, maintained and operated upon said premises so that the Des Moines Union Railway Company can obtain access to manufactories, ware houses, or other industries located upon said lots fifty-seven (57) fifty-eight (58) and fifty-nine (59) of said official Plat, and it is not to be used for any other purpose than as a side track, and it is not to be used as a side track for general railway purposes, save in such manner and at such times as will in no way interfere with its use as a side track for the accommodation of manufactories, ware houses or other industries located upon the aforementioned lots; and it is expressly agreed and understood that the right-of-way herein granted is limited to the purposes and for the objects above set forth.

And I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title and that I have good right and lawful authority to grant the above mentioned right-of-way, and that the said premises are free and clear of all liens and incumbrances whatsoever; and I covenant to Warrant and Defend the right-

of-way hereby granted against the lawful claims of all persons whomsoever.

And Frances E. Hubbell, wife of F. M. Hubbell, here-  
1293 by relinquishes her right in and to the above described  
right-of-way.

Signed this 1st day of April, 1899.

F. M. HUBBELL  
FRANCES E. HUBBELL

Duly acknowledged April 20th, 1899. Filed for record in the office of the Recorder of Polk County, Iowa, on the 20th day of April, 1899, and recorded in Book 375, Page 430 of the records in said office.

1294

### **Defendants' Exhibit 574.**

Ordinance No. 981.

An Ordinance to vacate the east and west alley in Block Forty-nine (49) of J. Lyon's Addition and to grant the same to the Des Moines Union Railway Company.

Be it Ordained by the City Council of the City of Des Moines:

Section 1. That the east and west alley in Block Forty-nine (49) of J. Lyon's Addition to the City of Des Moines, be and the same is hereby vacated; provided, that a proper crossing shall be opened, graded and planked, over the right-of-way and tracks of the Des Moines Union Railway Company, and the Chicago, Rock Island and Pacific Railway where an extension of West Sixteenth Street running south from Walnut Street would cross said Railway tracks, the same to be done without expense to the City of Des Moines.

Section 2. That the said alley so above vacated be and the same is hereby granted to the Des Moines Union Railway Company for railway purposes.

Section 3. This ordinance shall take effect and be in force from and after its passage and publication as required by law.

Passed August 7, 1899.

Approved August 7, 1899.

1, E. R. Bennett, City Clerk of the City of Des Moines, hereby certify that the above and foregoing is a true copy of  
1295 Ordinance No. 981 passed by the City Council at a meeting held August 7, 1899, and that the same is as fully as of record in this office.

In witness whereof, I have hereunto set my hand and affixed my seal this 16th day of July, 1902.

E. R. BENNETT,  
City Clerk.

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**Defendants' Exhibit 575.**

1296

Be It Resolved By The City Council Of The City Of Des Moines:

That the City assents to a proposed crossing of a railway track of the Des Moines Union Railway Company over Cherry Street, the central line of which track is to leave Lot Five (5) of Block Nine (9), H. M. Hoxie's Addition to the City of Des Moines, about fifty-eight feet east of the east line of Ninth Street; and to enter Lot Eight (8), Block Ten (10) of said Hoxie's Addition to Des Moines, about eighty feet east of the said east line of Ninth Street.

Provided, however, that the top of the rails of the said track shall be at the present grade of the said street, and that the paving shall be replaced by the said Des Moines Union Railway Company in as good condition as it now is, the track to be laid, and the paving replaced under the supervision of the City Engineer.

Adopted March 31, 1900.

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**Defendants' Exhibit 576.**

1297

Know All Men By These Presents: That I, F. C. Hubbell, of the County of Polk and State of Iowa, in consideration of the sum of one dollar (\$1.00), in hand paid by the Des Moines Union Railway Company, a corporation organized and existing under the laws of the state of Iowa, do hereby grant unto the said Des Moines Union Railway Company, subject to the conditions and limitations hereinafter set forth, a right of way over the following described premises situated in the County of Polk, State of Iowa, to-wit:

The south fourteen (14) feet of lot three (3), block seven (7) in Hoxies Addition to the town of Fort Des Moines, now in the city of Des Moines, Iowa.

The above granted right of way is a right of way only for the construction, maintenance, and operation of a side track, and not for a main track. And it is not to be used for any other purpose than as a side track, and is not to be used as a side track for general purposes, save in such manner and at such times as it will in no way interfere with its use

as a side track for the accommodation of the owner or occupants of the north fifty-two (52) feet, of lot three (3) in said block (7) of Hoxies Addition to the town of Fort Des Moines.

And it is expressly agreed and understood that the right of way herein granted is lawful for the purposes and objects above set forth; and I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by a good and perfect title, and that I have good right and lawful authority to grant the above mentioned right of way, and that the said premises are free and clear of all liens and incumbrances whatsoever.

And I covenant to warrant and defend the right of way hereby granted against the lawful claims of all persons whomsoever. And Mary W. Hubbell, wife of said F. C. Hubbell, hereby relinquishes her right in and to the above described right of way.

Signed this 31st day of May, 1900.

F. C. HUBBELL.

MARY W. HUBBELL.

(Revenue stamp attached)

Duly acknowledged May 31, 1900. Filed for record in the office of the Recorder of Polk County, Iowa, on the 4th day of August, 1900, and recorded in Book 401, Page 277 of the records of said office.

1299

### **Defendants' Exhibit 577.**

Know All Men By These Presents: That F. M. Hubbell of Polk County, and State of Iowa in consideration of the sum of Eight Hundred and four Dollars, in hand paid by the Des Moines Union Railway Company of Polk County, and State of Iowa do hereby Sell and Convey unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, to-wit:

The east twelve (12) feet of the West two-thirds of lots numbered seven (7) and eight (8) in block number ten (10) of Hoxies Addition to Fort Des Moines now included in and forming a part of the city of Des Moines.

And I hereby covenant with the Said Des Moines Union Railway Company that I hold said premises by good and perfect title; that I have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And I covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever.

And Frances E. Hubbell wife of F. M. Hubbell hereby relinquishes her right in and to the above described premises.

Signed the 21st day of June, A. D. 1900.

F. M. HUBBELL.

FRANCES E. HUBBELL.

1300 Duly acknowledged June 22<sup>nd</sup>, 1900. Filed for record in the office of the Recorder of Polk County, Iowa, on the 25th day of June, 1900, and recorded in Book 406, Page 547 of the records in said office.

### Defendants' Exhibit 578.

1301

Know all Men by These Presents:

That Albert B. Cummins, Trustee, of the County of Polk and State of Iowa in consideration of the sum of One dollar & the performance of the Declaration of Trust hereinafter mentioned, in hand paid by Des Moines Union Railway Company of Polk County, and State of Iowa do hereby Sell and Convey unto the said Des Moines Union Railway Company the following described premises situated in the County of Polk and State of Iowa, to-wit: Lots numbered four (4) and five (5) in block number twenty (20) Lot number ten (10) and the south one third of lot number three (3) in block number thirty-five (35) all in the original Town of Fort Des Moines.

Also lot number one (1) of Getchells Sub Division of lot eight (8) and the south one third of lot seven (7) of block eighteen (18) of Hoxies Addition to the town of Fort Des Moines now included in and forming a part of the city of Des Moines, Iowa.

And I do hereby covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever claiming by, through or under us, except a mortgage made by me as Trustee to the Equitable Life Insurance Co. of Iowa for \$20,000.00 & recorded in book 231 on page 467 of Polk County Recorders office which the said grantee assumes and agrees to pay. This conveyance is also made in pursuance of a

declaration of a Trust made by me to said Des Moines  
 1302 Union Railway Company dated November 15th, 1890,  
 and recorded in Book 264 page 353 of Polk County  
 Recorders office.

Signed this 15th day of October A. D. 1901.

ALBERT B. CUMMINS,  
 Trustees

Duly acknowledged October 21, 1901. Filed for record in  
 the office of the Recorder of Polk County, Iowa, on the 21st  
 day of October, 1901, and recorded in Book 430, Page 89 of  
 the records in said office.

1303

### **Defendants' Exhibit 579.**

§2081. Said resolution as amended was then presented  
 as follows: Be it Resolved by the City Council of the City  
 of Des Moines: That consent is hereby granted to the Des  
 Moines Union Railway Co. to construct a railway track ex-  
 tending in a northeasterly direction from a point near the S.  
 E. corner of Lot 5, Block 18, of H. M. Hoxie's Addition, across  
 Cherry Street to a point near the southwest corner of Lot 1,  
 Block 19, of H. M. Hoxie's Addition; said track crossing  
 Cherry Street between 10th and 11th Streets. The privilege  
 hereby granted is upon the condition that within one year  
 from the passage of this resolution, there be constructed by  
 or for the use of the Continental Biscuit Company for manu-  
 facturing purposes, a building upon said Lot 1, and also Lot 2,  
 in Block 19, of H. M. Hoxie's Addition, and that if said build-  
 ing be not constructed as herein provided, then said track shall  
 be removed by said railway company upon the request of the  
 City Council and said street restored; and also upon the  
 further condition, that the said railway company shall save  
 the City harmless from all claims for damages by reason of  
 the operation and maintenance of said track.

Adopted February 24, 1902.

1304

### **Defendants' Exhibit 580.**

A resolution granting to the Des Moines Union Rail-  
 way Company, the right to lay, maintain and operate a single  
 track on the west side of West First Street, from the south  
 side of the first alley north of Court Avenue to an intersec-  
 tion with the main line of the Des Moines Union Railway.

1. Be It Resolved By The City Council Of The City Of  
 Des Moines, Iowa: That there is hereby granted to the Des  
 Moines Union Railway Company the right to lay, maintain

and operate a single track railway on the west side of West First Street from the south side of the first alley north of Court Avenue to a convenient point of intersection with the main line of the Des Moines Union Railway. Said track shall be so laid that its center line shall so far as practicable be parallel with the east line of Lots 11 and 12 of Block 35 and of Lots 7 and 8 in Block 34, of the Original Town of Fort Des Moines, Iowa, and said track shall be immediately adjacent to the east line of said lots.

2. Be it Further Resolved: That this grant shall not be effective unless the owners of Lots 11 and 12 in Block 35 and Lots 7 and 8 in Block 34 of the Original Town of Fort Des Moines, in front of which said track shall be laid, shall be compensated for and shall release the City of Des Moines from all claims for damages of every kind and nature accruing or which may accrue to them by reason of the laying, maintaining and operating of said railway along said street. Said track shall be laid at the established grade of First Street, and the space between the lot line and the curbing shall be paved with brick. All switching on said track shall be done between the hours of seven P. M. and nine A. M. This  
1305 grant to be in effect when erection of building is begun.

Adopted April 3, 1902.

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**[Defendants' Exhibit 581.]**

1306

§31. Be it Resolved by the City Council of the City of Des Moines: That permission is hereby granted to the Des Moines Union Railway Co. to lay down, maintain and operate a railroad track in East Third Street in the City of Des Moines from a point at or near the Northwest corner of Lot 4, Block 3, Demoine, thence northwesterly on a suitable curve to the northward to the northeast corner of Lot 10, Block 1 of Scott & Dean's Addition, with a suitable switch to serve the Dempster Manufacturing Company, provided that before said track is constructed the Des Moines Union Railway Company will settle and pay all abutting damages to property owners, and provided further that the said Des Moines Union Railway Company shall hold harmless the City of Des Moines from any damages by reason of the grant herein contained.

Adopted April 3, 1902.

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**Defendants' Exhibit 582.**

1307

Know All Men By These Presents:

That F. C. Hubbell Trustee of the County of Polk and State of Iowa in consideration of the sum of One Dollar, in

hand paid by the Des Moines Union Railway Co. of Polk County, and State of Iowa, do hereby Sell and Convey unto the said Des Moines Union Railway Company the following described premises situated in the County of Polk and State of Iowa, to-wit:

Lots numbered one (1) two (2) three (3) four (4) five (5) six (6) seven (7) eight (8) nine (9) and ten (10) of Capital Addition in the city of Des Moines.

And I do hereby covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever claiming by, through or under us.

Signed this 7th day of May A. D. 1902.

F. C. HUBBELL, Trustee  
MARY W. HUBBELL.

Duly acknowledged May 7, 1902. Filed for record in the office of the Recorder of Polk County, Iowa, on the 17th day of May, 1902, and recorded in Book 443, Page 100, of the records in said office.

1308

### **Defendants' Exhibit 583.**

Know All Men By These Presents:

That Charles H. Getchell and Rachel E. Getchell husband and wife, of Polk County, Iowa, in consideration of the sum of Twelve Thousand and no/100 Dollars, in hand paid by F. M. Hubbell of Polk County, Iowa, do hereby sell and convey unto the said F. M. Hubbell the following described premises situated in the County of Polk and State of Iowa, to-wit:

The North thirty-eight (38) feet of Lot Seven (7) in Block Nine (9), also the North thirty-eight (38) feet of Lot Two (2) in Block Fourteen (14), all in Hoxie's Addition, now in and forming a part of the City of Des Moines, Iowa, grantors reserving all improvements thereon.

This conveyance is made pursuant to contract entered into on June 17, 1902, by and between the Des Moines Union Railway Co., party of the first part, and Getchell & Martin Lumber & Manufacturing Co. and C. H. Getchell, parties of the second part; the said Des Moines Union Railway Co. having requested in writing that the deed to the said premises be executed to F. M. Hubbell, grantee herein. The said F. M. Hubbell accepts this deed subject to all of the conditions, obligations, burdens and requirements contained in said contract, and subject to the requirement that the said premises be used

for the purposes and in the manner in said contract provided.

1308 And we hereby covenant with the said F. M. Hubbell that we hold said premises by good and perfect title. That we have good right and lawful authority to sell and convey the same. That they are free and clear of all liens and encumbrances whatsoever. And we covenant to warrant and defend the same against the lawful claims of all persons whomsoever.

And the said Rachel E. Getchell hereby relinquishes her right in and to said premises.

Dated this 14 day of July, 1902.

CHARLES H. GETCHELL  
RACHEL E. GETCHELL.

Duly acknowledged July 14, 1902. Filed for record in the office of the Recorder of Polk County, Iowa, on the 25th day of July, 1902, and recorded in Book 443, Page 536 of the records in said office.

#### **Defendants' Exhibit 584.**

1310

Know All Men By These Presents:

That Charles H. Getchell and Rachel E. Getchell husband and wife, of Polk County, Iowa, in consideration of the sum of Three Thousand and no 100 Dollars, in hand paid by F. M. Hubbell of Polk County, Iowa, do hereby sell and convey unto the said F. M. Hubbell the following described premises situated in the County of Polk and State of Iowa, to-wit:

The East Half ( $\frac{1}{2}$ ) of Lots Seven (7) and Eight (8) in Block Fourteen (14) in Hoxie's Addition, now in and forming a part of the City of Des Moines, Iowa, grantors reserving all improvements thereon.

And we hereby covenant with the said F. M. Hubbell that we hold said premises by good and perfect title. That we have good right and lawful authority to sell and convey the same. That they are free and clear of all liens and encumbrances whatsoever. And we covenant to warrant and defend the same against the lawful claims of all persons whomsoever.

And the said Rachel E. Getchell hereby relinquishes her right in and to said premises.

Dated this 14 day of July, 1902.

CHARLES H. GETCHELL  
RACHEL E. GETCHELL

Duly acknowledged July 14, 1902. Filed for record in the office of the Recorder of Polk County, Iowa, July 25, 1902, and recorded in Book 443, Page 537 of the records in said office.

1311

### Defendants' Exhibit 585.

Articles of Agreement, entered into this 17<sup>th</sup> day of June, 1902, by and between the Des Moines Union Railway Co., party of the first part, and Getchell & Martin Lumber & Manufacturing Co. and C. H. Getchell, parties of the second part, Witnesseth:

That Whereas, the Des Moines Union Railway Co. desires to acquire the right to occupy that portion of the alley running east and west between Vine and Cherry Streets in the city of Des Moines, Iowa, which lies between the alley running north and south between Seventh and Eighth Streets, and a point sixty-six (66) feet west of the alley running north and south between Ninth and Tenth Streets in said city, with railway tracks; and,

Whereas, the said Des Moines Union Railway Co. desires to acquire title to the East Half (1/2) of Lots Seven (7) and Eight (8), Block Fourteen (14) of Hoxie's Addition in the city of Des Moines, Iowa, also the north thirty-eight (38) feet of Lot Two (2) in said Block Fourteen (14) of Hoxie's Addition, also the north thirty-eight (38) feet of Lots Two (2) and Seven (7) in Block Nine (9) of Hoxie's Addition, all in and forming a part of the city of Des Moines, Iowa, and,

Whereas, a certain condemnation proceeding has been commenced to ascertain the damage to the property of said parties abutting on said alley caused by the locating and laying down of a railroad track thereon, in which the award of the sheriff's jury has been made, from which award said Des Moines Union Railway Co. has appealed to the District Court of Polk County, Iowa; and

Whereas, the Getchell & Martin Lumber & Manufacturing Co., has commenced a certain action for damages for the occupation of a portion of said alley in the past by the said Des Moines Union Railway Co.'s track, without first having the damage to abutting property assessed and compensated for; and,

Whereas, the said C. H. Getchell has commenced an action for damages and to have the damages caused by the laying down and operation of a railway track thereon, abutting on the portion of above property owned by him, ascertained and compensated for; and,

Whereas, the parties hereto desire to fully settle the said condemnation proceeding and the said actions for damages;

It is Hereby Agreed As Follows:

1st. The Des Moines Union Railway Co., hereby agrees to purchase of second parties the East Half ( $\frac{1}{2}$ ) of Lots Seven (7) and Eight (8) and the north thirty-eight (38) feet of Lot Two (2) in Block Fourteen (14), and the north thirty-eight (38) feet of Lots Two (2) and Seven (7) in Block Nine (9), all in 1313 Hoxie's Addition, now in and forming a part of the city of Des Moines, Iowa, subject to the conditions, reservations and stipulations hereinafter contained, and agrees to pay therefor, and as full settlement of the damages for the occupation of said alley with said tracks, the sum of Twenty-one Thousand Dollars (\$21,000.00) on the delivery of proper deeds of conveyance, accompanied by abstracts showing good title. Said abstracts will show, however, a mortgage in favor of the Equitable Life Insurance Co., of Iowa, covering said property and other property, which mortgage shall be paid off out of said sum of Twenty-one Thousand Dollars (\$21,000.00).

2nd. In consideration of the covenants of first party and of the matters and things herein contained, second parties agree to sell and convey to first party the premises last above described, and agree to relinquish all claim for damages against first party for and on account of the occupation of the said portion of said alley between Vine and Cherry Streets which abuts on Lot Three (3) in Block Four (4), Town of Fort Des Moines, and Lots Two (2) and Seven (7) in Block Nine (9), and Lot Two (2) and the East Half ( $\frac{1}{2}$ ) of Lot Seven (7) in Block Fourteen (14) in Hoxie's Addition to the city of Des Moines, Iowa, with a railroad track, said relinquishment covering all damages past, present and future, caused by, or 1214 due thereto, and sign and acknowledge an instrument so relinquishing the same; first party to have the rights and be subject to the obligations in regard to the said alley that would exist if the right to occupy the said alley with its tracks had been obtained by condemnation proceedings pursuant to grant from City of Des Moines; subject, however, to the conditions hereinafter set forth.

3rd. First party shall use the north thirty-eight (38) feet of Lot Two (2) in Block Fourteen (14) and the north thirty-eight (38) feet of Lots Two (2) and Seven (7) in Block Nine (9) in Hoxie's Addition, for the location, laying down and operating of two (2) railroad tracks, one of which tracks shall be located as near as practicable to the north line of said thirty-eight (38) feet and the other as near as practicable to the

south line of said thirty-eight (38) feet, and shall improve the space between the said two (2) tracks for a driveway, and shall maintain the said driveway and the said south track in such condition until May 1st, 1918, with the right reserved by the said Getchell & Martin Lumber & Manufacturing Co., and C. H. Getchell, their heirs, administrators and assigns, and lessees of either, to use the said driveway between the said two (2) tracks during all of said time in common with the first party and its patrons, and with the right of the Getchell & Martin Lumber & Manufacturing Co., and C. H. Getchell, their heirs, administrators, assigns, and lessees of either, to use, in common with first party and its patrons, the south track to be located on said thirty-eight (38) feet of ground for sidetrack purposes for the benefit of the real estate abutting thereon from the south side thereof for loading and unloading and general sidetrack purposes, such rights to continue to May 1st, 1918.

4th. Said Des Moines Union Railway Co., shall use the said south track to be located on the said premises as a loading and unloading track, and shall use the same subject to the rights of the second parties, heirs, assigns, and lessees of the property abutting thereon to use the said south track for sidetrack, loading and unloading purposes, upon the conditions provided herein; and first party will, within a reasonable time after being requested so to do by said parties, or either of them, place on said sidetrack, in such place as may be requested, empty cars for loading, or loaded cars for unloading, at tariff rates charged others for like service, and will allow the same to stand on said sidetrack for such purpose for forty-eight (48) hours if desired, and will, within a reasonable time after being so requested, remove from said sidetrack any loaded cars that have been placed thereon for said parties or either of them.

1316 5th. In the event first party maintains the said driveway between said two (2) tracks hereinbefore described, and the south track hereinbefore mentioned, for loading and unloading purposes, after May 1st, 1918, the then owners or lessees of the south ninety-four (94) feet of Lots One (1) and Two (2), and Lots Seven (7) and Eight (8) of Block Nine (9), and south ninety-four (94) feet of Lots One (1) and Two (2) of Block Fourteen (14), all in Hoxie's Addition, during such time, shall have the same rights with regard to said driveway and with regard to said track and the placing on and removing of cars therefrom or loading and unloading of cars thereon or therefrom, as are given by this contract prior to May 1st, 1918, so long as the first party so maintains or uses said driveway or

the said track for the purposes above mentioned. Nothing herein contained shall prevent the first party from using said tracks and driveway for any purpose it may desire after May 1st, 1919.

6th. Second parties reserve all improvements on the said premises herein agreed to be conveyed to first party, and are given sixty (60) days, after the execution and delivery of deeds of conveyance, for the removal of the same.

7th. First party will dismiss the condemnation proceedings heretofore mentioned, and will pay all of the costs thereof, except attorneys' fees that might be taxed in favor of second parties in the condemnation proceedings heretofore referred to.

8th. Getchell & Martin Lumber & Manufacturing Co. and C. H. Getchell will dismiss the two actions for damages heretofore mentioned, and will pay the costs thereof.

9th. This Contract shall be binding when approved by Mr. Earling of the Chicago, Milwaukee & St. Paul Railway Co., and by Mr. Ramsey of the Wabash Railway Co., provided such approval be entered hereon by the 1st day of July, 1902; and if not so approved by said parties, and notice thereof given second parties, by said time, this contract shall be null and void.

10th. First party agrees to pay to second parties the said sum of Twenty-one Thousand Dollars (\$21,000.00) on the tendering of release of damages as provided herein, and of proper deeds of conveyance of said premises herein agreed to be conveyed, together with abstract of title as heretofore specified said deeds and abstract to be furnished on or before the 10th day of July, 1902.

11th. Unless the Equitable Life Insurance Co. of Iowa will accept the balance due on a mortgage held by it, which covers the property herein agreed to be conveyed, and will release the said mortgage at the time deeds are to be delivered and money paid over as herein provided, the said payment of said money and release of said mortgage to be concurrent in point of time.

second parties shall not be bound hereby and will be free from any obligation hereunder.

1318 In Witness Whereof, we have hereunto set our hands  
DES MOINES UNION RAILWAY CO.  
PANY,

(Seal) By F. C. Huddell, President

GETCHELL & MARTIN L. M. CO.

(Seal) By C. H. Getchell, President  
C. H. GETCHELL.

We hereby approve of the foregoing contract.

A. J. EARLING,

J. RAMSEY, Jr.

Duly acknowledged June 18th, 1902, Filed for record in the office of the Recorder of Polk County, Iowa, on the 23th day of July, 1902, and recorded in Book 425, Page 524 of the records in said office.

1319

### Defendants' Exhibit 386.

Know All Men By These Presents:

That Whereas, on the 17th day of June, 1902, the Des Moines Union Railway Co., party of the first part, and Getchell & Martin Lumber & Manufacturing Co. and C. H. Getchell, parties of the second part, entered into a certain written contract in which the parties of the second part agreed to convey to the party of the first part therein, the north thirty-eight (38) feet of Lots Two (2) and Seven (7) in Block Nine (9), and the north thirty-eight (38) feet of Lot Two (2) in Block Fourteen (14), and all of the East Half (1/2) of Lots Seven (7) and Eight (8) in Block Fourteen (14), all in Hoxie's Addition, now in and forming a part of the city of Des Moines, Iowa; and agreed to release and relinquish certain claims for damages for and on account of the occupation of a certain alley therein described by the Des Moines Union Railway Co. with railway tracks; and,

Whereas, the first party in said contract agreed to pay to the second parties therein, in consideration of the conveyance of said real estate and of the relinquishment of said claims for damages, the sum of Twenty-one Thousand Dollars (\$21,000.00), and agreed to improve, maintain, occupy and use a portion of the premises above described for certain purposes in said contract specified; and

Whereas, the Des Moines Union Railway Co., has not  
1320 the ready money out of which to pay said Twenty-one  
Thousand Dollars (\$21,000.00); and,

Whereas, F. M. Hubbell proposes to accept a conveyance of  
the said real estate and borrow the said sum of Twenty-one  
Thousand Dollars (\$21,000.00) thereon, and secure the pay-  
ment thereof by executing his note therefor and giving a mort-  
gage for said amount covering said real estate; and after mort-  
gaging the same to secure said sum, convey all of said real es-  
tate above described except the south ninety-four (94) feet of  
the East Half ( $\frac{1}{2}$ ) of Lots Seven (7) and Eight (8) in Block  
Fourteen (14), Hoxie's Addition, to the Des Moines Union  
Railway Co., the said Des Moines Union Railway Co. to accept  
such conveyance and assume the obligation of and pay off the  
said mortgage to be so placed on the said premises;

Now, Therefore, In Consideration Of The Foregoing, and  
because of the matters and things hereinbefore set forth, the  
Des Moines Union Railway Co. hereby requests the Getchell &  
Martin Lumber & Manufacturing Co. and C. H. Getchell to  
execute deeds of conveyance for all of the real estate described  
in said contract above referred to, to F. M. Hubbell in lieu of  
conveying the said real state to the Des Moines Union Rail-  
way Co. as agreed to be done in said contract, such con-  
1321 veyance to the said F. M. Hubbell, however, to be sub-  
ject to the provisions and terms of the said contract.  
Such conveyance to the said F. M. Hubbell, however, shall not  
relieve the said real estate from the burdens imposed thereon  
by said contract, nor shall such conveyance relieve the Des  
Moines Union Railway Co. from complying with its agree-  
ments, duties and obligations imposed by the said contract; but  
notwithstanding such conveyance to the said F. M. Hubbell the  
said Des Moines Union Railway Co. shall improve, occupy and  
use the said premises for the purposes and during the time  
specified in said contract of June 17, 1902.

Dated this 18<sup>th</sup> day of July, 1902.

DES MOINES UNION RY. CO.,

(Seal)

Ry H. D. Thompson, Vice Presd.

The Getchell & Martin Lumber & Manufacturing Co. and  
C. H. Getchell hereby consent to convey the property above  
described to F. M. Hubbell, without waiving, however, any  
of the rights stipulated for in the contract above referred to,  
and on the condition that the said F. M. Hubbell will, within  
ninety days from this date, convey all of said premises except

the south ninety-four (94) feet of the East Half <sup>(12)</sup> of Lots Seven (7) and Eight (8) in Block Fourteen (14) above described, to the Des Moines Union Railway Co., to be improved, used and occupied by the said Railway Company as in said contract agreed and provided.

Dated this 18 day of July, 1902.

G. H. GETCHELL  
GETCHELL & MARTIN LUM. & MAX.  
CO.,

(Seal)

By C. H. Getchell, President.

The undersigned, F. M. Hubbell, hereby consents to receive the conveyance of the above described real estate, subject to the burdens and conditions above specified and stipulated for in the contract above referred to, and agrees to convey all of the said real estate above described except the south Ninety-four (94) feet of the East Half of Lots Seven (7) and Eight (8) in Block Fourteen (14) Hoxie's Addition, to the Des Moines Union Railway Co. within ninety days from this date.

Dated this 18 day of July 1902.

F. M. HUBBELL.

Filed for record in the office of the Recorder of Polk County, Iowa on the 25th day of July, 1902, and recorded in Book 425, Page 529 of the records in said office.

1323

### **Defendants' Exhibit 587.**

Know All Men By These Presents: That, Whereas, The Des Moines Union Railway Company, a corporation of the State of Iowa, has heretofore occupied, and is now occupying, that portion of the alley running east and west between Vine and Cherry Streets in the City of Des Moines, Iowa, which lies between the alley running north and south between Seventh and Eighth Streets, and a point sixty-six (66) feet west of the alley running north and south between Ninth and Tenth Streets in said City, with railway tracks, and

Whereas, the Getchell & Martin Lumber & Manufacturing Company, a corporation organized and existing under the laws of the State of Iowa, is the owner of Lots Three (3) and Four (4) in Block Four (4) Town of Fort Des Moines, and Lots One (1) and Two (2) in Block Nine (9) of Hoxie's Addition, all included in and forming a part of the City of Des Moines, Iowa, together with the certain mill property consisting of buildings and equipment, machinery and fixtures, and other improvements located thereon, and

Whereas, C. H. Getchell of Polk County, Iowa, is the owner of Lots Seven (7) and Eight (8) in Block Nine (9) and Lots One (1) and Two (2) and the East One-Half ( $\frac{1}{2}$ ) of Lots Seven (7) and Eight (8) in Block Fourteen (14), all in Hoxie's Addition, included in and forming a part of the City 1324 of Des Moines, Iowa, and

Whereas, said property abuts upon, or lies in the near vicinity of that portion of the alley running east and west between Vine and Cherry Streets, above referred to, and

Whereas, the said Getchell & Martin Lumber & Manufacturing Company and said C. H. Getchell claim that they have sustained damages, and that their said properties hereinbefore described have been damaged, and that damages are now being sustained by them, and will hereafter continue to be sustained, and that their said properties have depreciated and will further depreciate in value, all by reason of the occupancy of said alley by the said Des Moines Union Railway Company with railway tracks, and the use of said alley for railway purposes, and

Whereas, a certain condemnation proceeding has been commenced to ascertain the damage to the property of said Getchell & Martin Lumber & Manufacturing Company abutting on said alley, caused by the location and laying down of a railway track thereon, in which the award of the sheriff's jury has been made, and from which award said Des Moines Union Railway Company has appealed to the District Court of Polk County, Iowa, and

Whereas, said Getchell & Martin Lumber & Manufacturing Company has commenced a certain action for damages 1325 for the occupation of a portion of said alley in the past by the said railway track of said Des Moines Union Railway Company, without first having the damage to abutting property assessed and compensated for, and

Whereas, the said C. H. Getchell has commenced an action for damages and to have the damages caused by the laying down and operation of a railway track on that part of said alley abutting upon the portion of the above described property owned by him, and asks that said damages be ascertained and compensated for,

Now, Therefore, as a part of the consideration for the payment by the said Des Moines Union Railway Company to the said Getchell & Martin Lumber & Manufacturing Company and C. H. Getchell of the sum of Twenty-one Thousand Dollars (\$21,000.00) the receipt of which is hereby acknowledged, the said Getchell & Martin Lumber & Manufacturing Com-

pany and the said C. H. Getchell, and each of them, jointly and severally, hereby acknowledge full and complete satisfaction of any and all damages heretofore sustained or that may be hereafter sustained by them and each of them, their grantees, successors or assigns, and acknowledge full and complete payment and satisfaction of any and all damages to their said property hereinbefore described, or any part thereof, including said mill property and all other improvements thereon, and including all damages to said property heretofore sustained, or that may be hereafter sustained by reason of the laying down heretofore, or at any time hereafter of a railway track or railway tracks upon, and the occupation thereof with railway tracks, and the use thereof for railway purposes of, that portion of the alley running east and west between Vine and Cherry Streets in the City of Des Moines, Iowa, which lies between the alley running north and south between Seventh and Eighth Streets, and a point sixty-six (66) feet west of the alley running north and south between Ninth and Tenth Streets in the said city, the same including all that portion of said alley between Vine and Cherry Streets which abuts on Lot Three (3) in Block Four (4) Town of Fort Des Moines, and Lots Two (2) and Seven (7) in Block Nine (9), and Lot Two (2) and the East One Half (1/2) of Lot Seven (7) in Block Fourteen (14) all in Hoxie's Addition to the City of Des Moines, Iowa; and in consideration of such payment, the said Getchell & Martin Lumber & Manufacturing Company, and C. H. Getchell, and each of them, for themselves, their grantees, successors or assigns, hereby release, relinquish and discharge the said Des Moines Union Railway Company, its successors or assigns, and its officers, agents and representatives, of any and all damages or claims for damages, they, or either of them, now have or may hereafter have by reason of the laying down of such tracks upon such portion of said alley hereinbefore described and the occupation thereof with railway tracks, and the continued occupation and use thereof with railway tracks and for railway purposes; and this release and discharge shall, and does, include all damages claimed by said Getchell & Martin Lumber & Manufacturing Company and said C. H. Getchell in said suits hereinbefore referred to, which said suits are to be dismissed of record by the parties thereto.

By this release, the parties hereto intend to relinquish all claim for damages caused by, or claimed on account, of, the laying down, maintenance and operation of the said track or tracks in said alley in the past, and all damages that might, in any event, be assessed in favor of the said Getchell & Martin Lumber & Manufacturing Company and C. H. Getchell,

or either of them, or their grantees, successors or assigns, in condemnation proceedings to acquire the right to occupy said alley with railway tracks as hereinbefore provided and to give to the said Des Moines Union Railway Company, its successors or assigns, all the rights in said portion of said alley that it could acquire therein by condemnation proceedings, under the laws of the State of Iowa, it being conceded 1328 that the right to the use of said alley as hereinbefore provided could lawfully be acquired by such condemnation proceedings.

Witness our hands this 18th day of July, 1902.

C. H. GETCHELL,

(Seal)

GETCHELL & MARTIN LUM. & MAN. CO.

By C. H. Getchell, President.

Duly acknowledged July 18, 1902. Filed for record in the office of the Recorder of Polk County, Iowa, on the 25th day of July 1902, and recorded in Book 425, Page 531 of the records in said office.

1329

### Defendants' Exhibit 588.

Know All Men By These Presents:

That the Getchell & Martin Lumber & Manufacturing Co. of Polk County, Iowa, in consideration of the sum of Six Thousand and no/100 Dollars, in hand paid by F. M. Hubbell of Polk County, Iowa, does hereby sell and convey unto the said F. M. Hubbell the following described premises situated in the County of Polk, and State of Iowa, to-wit:

The North thirty-eight (38) feet of Lot Two (2) in Block Nine (9) of Hoxie's Addition, now in and forming a part of the City of Des Moines, Iowa. Grantor reserves all improvements thereon.

This conveyance is made pursuant to contract entered into on June 17, 1902, by and between the Des Moines Union Railway Co., party of the first part, and Getchell & Martin Lumber & Manufacturing Co. and C. H. Getchell, parties of the second part; the said Des Moines Union Railway Co., having requested in writing that the deed to the said premises be executed to F. M. Hubbell, grantee herein. The said F. M. Hubbell accepts this deed subject to all of the conditions, obligations, burdens and requirements contained in said contract, and subject to the requirement that the said premises be used for the purposes and in the manner in said contract provided.

And the said Getchell & Martin Lumber & Manufacturing Co. hereby covenants with the said F. M. Hubbell that  
 1330 it holds said premises by good and perfect title; that it has good right and lawful authority to sell and convey the same. That the said premises are free and clear of all liens and encumbrances whatsoever; and covenants to warrant and defend the same against the lawful claims of all persons whomsoever.

Dated at Des Moines, Iowa, this 18 day of July, 1902.

GETCHELL & MARTIN LUMBER &  
 MANUFACTURING CO.,

(Seal)

By C. H. Getchell, President.

Duly acknowledged July 18, 1902. Filed for record in the office of the Recorder of Polk County, Iowa, on the 25th day of July, 1902, and recorded in Book 365, Page 147 of the records in said office.

1331

### Defendants' Exhibit 589.

In Consideration Of Three Thousand Dollars, F. M. Hubbell of Polk County, State of Iowa, hereby grants unto the Des Moines Union Railway Company of the County of Polk and State of Iowa subject to the conditions and limitations herein set forth the right of way over the following described premises situated in the County of Polk and State of Iowa to-wit: The north thirty-two (32) feet of lot number two (2) in block eighteen (18) of H. M. Hoxie's Addition to the town of Fort Des Moines now in the city of Des Moines. The grantee accepts this conveyance of right of way with the understanding and agreement that it will construct, maintain and operate a loading and unloading track for the use and benefit of the owners and lessees of the remaining portion of said lot number two (2). Said track to be located as near as practicable to the south line of said 32 foot strip. No track shall be located north of said unloading track whose center line shall be nearer than eighteen (18) feet to the center line of said unloading track at the west end, nor nearer than twenty (20) feet to said center line at the east end of said premises.

The space between said unloading track and the first  
 1332 track north thereof as above provided shall always be used as a drive way for teams as per plat opposite our signatures hereto, and subject to mortgage held by the Equitable Life Insurance Co. of Iowa.

And Frances E. Hubbell, wife of the said F. M. Hubbell for the foregoing consideration, do hereby relinquish all her right of dower and homestead in the above described premises.

Signed this 21st day of July, A. D. 1902.

F. M. HUBBELL,  
FRANCES E. HUBBELL,

(Plaf)

By F. C. Hubbell,  
her Atty. in fact.

Duly acknowledged July 21st, 1902, Filed for record in the office of the Recorder of Polk County, Iowa, on the 25th day of July, A. D. 1902, and recorded in Book 438 Page 587 of the records in said office.

1333

### **Defendants' Exhibit 590.**

Know All Men By These Presents:

That F. M. Hubbell and Frances E. Hubbell, husband and wife of the County of Polk and State of Iowa in consideration of the sum of Twenty thousand two hundred & Sixty four Dollars in hand paid by the Des Moines Union Railway Company of Polk County, and State of Iowa, do hereby Sell and Convey unto the said Des Moines Union Railway Company the following described premises situated in the County of Polk and State of Iowa, to-wit:

The north thirty eight (38) feet of the following described real estate to-wit: Lots numbered two (2) and seven (7) in block number nine (9) and lots numbered two (2) and seven (7) in block number fourteen (14) all being in Hoxies Addition to the town of Fort Des Moines now included in the corporate limits of the city of Des Moines.

This conveyance is made subject to a mortgage made by F. M. Hubbell dated July 18, 1902 in favor of the Equitable Life Insurance Co. of Iowa for \$20264.00 maturing August 1, 1912, which the said Des Moines Union Railway Co., assumes and agrees to pay. The Des Moines Union Railway Company accepts this deed subject to a certain contract dated 1334 June 17th 1902 made between the Des Moines Union Railway Company and the Getchell & Martin Lumber & Manufacturing Company and C. H. Getchell which has been filed for record in the Recorder's Office of Polk County, and subject to a certain other agreement between said parties dated July 18th, 1902, which has also been recorded in the Recorder's

office of Polk County, and subject to all the conditions contained in the contracts above referred to.

And we do hereby covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever claiming by, through or under us, except as stated.

And the said Frances E. Hubbell hereby relinquishes her right in and to the above described premises.

Signed this 21st day of July, A. D. 1902.

F. M. HUBBELL,  
FRANCES E. HUBBELL,  
By F. C. Hubbell,  
her Atty. in fact.

Duly acknowledged July 21st, 1902. Filed for record in the office of the Recorder of Polk County, Iowa, on the 25th day of July, 1902, and recorded in Book 443, Page 539 of the records in said office.

1335

### **Defendants' Exhibit 591.**

**Know All Men By These Presents:**

That the Des Moines Water Works Company, a corporation with its principal place of business in the City of Des Moines, Iowa, in consideration of the sum of One Dollar to it in hand paid by the Des Moines Union Railway Company, a corporation with its principal place of business in the City of Des Moines, hereby quit claims unto the said Des Moines Union Railway Company a right of way for railway purposes over and across the following described strip of land in Polk County, Iowa, to-wit: a strip of ground about eleven (11) feet wide bounded by the lines in red ink running from the point indicated by the letter A on the plat hereto attached to the point indicated by the letter B on said plat, thence from the point indicated by said letter B to the point indicated by the letter C on said plat, thence from the point indicated by the said letter C to the point indicated by the letter D on said plat, thence from the point indicated by the said letter D to the place of beginning. Said plat is marked Exhibit "1" and is identified by the signature of the secretaries of each of the parties hereto, and is attached to this deed and made a part hereof. The right of way hereby conveyed is intended to be enclosed by the red line marked upon said plat, running from the point A to the point B and from the point B to the point C and from the point C to the point D and from the point D to the point A as above stated.

1336

The property hereby granted is located in lots three (3) and four (4) in block 49 J. Lyon's Addition to the original town of Fort Des Moines, now included in the City of Des Moines, Iowa, and in what was formerly Iowa Street and the alley adjacent to said lots.

It is not the intention of the parties hereto to include in this grant any part of the said lots now occupied by the buildings of the grantor herein, it being the understanding of the parties that the boundary line B-C comes up to the building of the grantor at one point, but does not include any portion of the said building.

This conveyance is upon the following express conditions:

First: The said property hereby granted shall be used for railroad purposes only, and if the grantee ceases to use the same or any part thereof for such purposes the real estate hereby granted or the part thereof not used for railroad purposes shall revert to the grantor and the interest of the grantee therein shall cease and determine.

Second: The Des Moines Union Railway Company shall promptly construct and shall maintain a coal track substantially as indicated by the track designated as "Proposed Coal Track" upon the plat Exhibit "I" hereto attached, from a connection with its railway to a point directly south of the east end of the coal house of the grantor herein, which track shall be used exclusively for the business of the grantor.  
1337 The said coal track shall be located as shown by the said plat Exhibit "I". The top of the rails of said proposed coal track shall not at the point designated on said plat by the letter E, be more than eight inches higher than the level of the top of the door-sill of the east door of the grantor's boiler room.

In Witness Whereof, Said Des Moines Water Works Company has caused this instrument to be executed in its behalf by its president and attested by its secretary with its corporate seal, on this 21st day of July, A. D. 1902.

**DES MOINES WATER WORKS  
COMPANY,**

(Seal)

By Charles H. Payson, President.

Attest:

Charles S. Denman,  
Secretary.

Duly acknowledged July 21, 1902.

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**Defendants' Exhibit 592.**

September 12, 1902.

Received of the Des Moines Union Railway Company certain agreements wherein the Warfield, Pratt, Howell Co., Brown-Hurley Hardware Co. and Tone Bros. consent to the construction, operation and maintenance of a single track railway on the west side of West First Street opposite Lots Eleven (11) and Twelve (12) Block Thirty-five (35) and Lots Seven and Eight (8), Block Thirty-four (34) all in the original Town of Fort Des Moines; and release the City of Des Moines from any and all damages which may accrue to the said real estate by reason of the construction, maintenance and operation of said track in accordance with resolution adopted by the City Council August 23, 1902.

E. R. BENNETT,  
City Clerk.

**Defendants' Exhibit 593.**

A Resolution Granting to the Des Moines Union Railway Company the right to lay, maintain and operate a single track railway on the west side of West First Street from the south side of the first alley north of Court Avenue, southward, and on and across said West First Street to an intersection with the main line of the Des Moines Union Railway Company as the same is now located and constructed; and to rescind a resolution passed by the City Council of the City of Des Moines, Iowa, on the 21st day of April 1902, entitled "A resolution granting to the Des Moines Union Railway Company the right to lay, maintain and operate a single track railway on the west side of West First Street from the south side of the first alley north of Court Avenue to an intersection with the main line of the Des Moines Union Railway Company," and to rescind a resolution passed by the City Council of the City of Des Moines on the 23d day of June, 1902, reading as follows: "Be It Resolved by the City Council of the City of Des Moines: That the Des Moines Union Railway Company be instructed to lay its track seven (7) feet east of lot line instead of immediately adjacent to the east line of said lots as provided in Resolution R. C. No. 312, passed April 21, 1902."

First: Be it Resolved by the City Council of the City of Des Moines, Iowa: That there is hereby granted to the Des Moines Union Railway Company the right to lay, maintain and operate a single track railway on and along the west side of West First Street from the south side of the first alley

1340 north of Court Avenue, southward, and on and across said West, First Street in a southeasterly direction, and upon a proper curve therefor, to a convenient point of intersection in order to connect with the main line of the Des Moines Union Railway Company as the same is now located and constructed across the Des Moines river, and from the Des Moines river westward. Said track shall be so laid that its center line shall, so far as practicable in order to make said connection and interest in a proper and convenient manner with said mine line, be a distance of twelve and one half ( $12\frac{1}{2}$ ) feet from, and parallel with, the east line of Lots Eleven, (11) and Twelve (12) in Block Thirty-five (35) and Lots Seven (7) and Eight (8) in Block Thirty-four (34) all in the Original Town of Fort Des Moines, and included in and forming a part of the City of Des Moines, Polk County, Iowa.

Second: Be it Further Resolved: That this grant shall not be effective unless the owners of Lots Eleven (11) and Twelve (12) in Block Thirty-five (35) and Lots Seven (7) and Eight (8) in Block Thirty-four (34) of the Original Town of Fort Des Moines, in front of which said track shall be laid, be compensated for and shall release the City of Des Moines from all claims for damage of every kind and nature accruing or which may accrue to them by reason of the laying, maintaining and operating of said railway along said street, and said track shall be laid at the established grade of First Street. All switching on said track shall be done between the hours of seven o'clock P. M. and eight o'clock A. M.

Third: Be It Further Resolved: That the certain resolution passed by the City Council of the City of Des Moines, Iowa, on the 21st day of April, 1902, entitled "A resolution granting to the Des Moines Union Railway Company the right to lay, maintain and operate a single track railway on the west side of West First Street from the south side of the first alley north of Court Avenue to an intersection with the main line of the Des Moines Union Railway Company," also a certain other resolution passed by the City Council of the City of Des Moines on the 23d day of June, 1902, reading as follows: "Be it Resolved by the City Council of the City of Des Moines: That the Des Moines Union Railway Company be instructed to lay its track seven (7) feet east of lot line instead of immediately adjacent to the east line of said lots as provided in Resolution R. C. No. 312, passed April 21, 1902," be and they are and each of them is hereby rescinded.

Adopted August 23, 1902.

1342

**Defendants' Exhibit 594.**

Know All Men By These Presents, That I, C. C. Cole, Trustee, of Polk County, and State of Iowa, in consideration of the sum of One Hundred and fifty Dollars in hand paid by Des Moines Union Railway Company of Polk County, and State of Iowa do hereby Sell and Convey unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, to-wit:

Lots number Thirty-eight (38) and Number Thirty-nine (39) in Capitol Addition to the City of Des Moines, being now a part of the City of Des Moines, Polk County, Iowa.

And I do hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title; that I have good right and lawful authority to sell and convey the same; that they are free and clear from all liens and incumbrances whatsoever. ....

And I do covenant to Warrant And Defend the said premises against the lawful claims of all persons whomsoever.

Signed the 8th day of October, A. D. 1902.

C. C. COLE, Trustee.

1343 Duly acknowledged October 8, 1902. Filed for record in the office of the Recorder of Polk County, Iowa, October 16, 1902, and recorded in Book 445, Page 419 of the records in said office.

1344

**Defendants' Exhibit 595.**

In Consideration Of One Thousand Dollars, We, F. J. Hubbell and Frances E. Hubbell, husband and wife, of Polk County, State of Iowa, hereby Convey to the Des Moines Union Railway Company of the County of Polk and State of Iowa.

The right-of-way over and along the north twelve (12) feet of lots five (5) and six (6) in block forty-two (42) of T. Lyon's Addition to Fort Des Moines, for the purpose of building, maintaining and operating thereon a single track railway; and also the right-of-way over and along the following described premises, viz;

Beginning at the southwest corner of lot five (5) block forty-two (42) of T. Lyon's Addition to Fort Des Moines; thence north on the west line of said lot five (5) twenty-four (24) feet; thence southeasterly to a point on the south line of lot six (6) in said block forty-two (42) forty (40) feet east of the southwest corner of said lot; thence westerly along the

south line of said lots five (5) and six (6) to the place of beginning. For the purpose of building, maintaining and operating thereon a single or double track railway.

And I, Frances E. Hubbell, wife of the said F. M. Hubbell, for the foregoing consideration, do hereby relinquish all my right of dower and homestead in the above described premises.

1345 Signed this Eighth day of October A. D., 1902.

F. M. HUBBELL,

FRANCES E. HUBBELL,

By P. C. Hubbell, her Atty. in fact.

Duly acknowledged October 8th, 1902. Filed for record in the office of the Recorder of Polk County, Iowa, on the 15th day of October 1902, and recorded in Book 412, Page 406 of the records in said office.

1346

### Defendants' Exhibit 596.

Know All Men By These Presents:

That C. Huttenlocher of the County of Polk and State of Iowa in consideration of the sum of Fifty Dollars in hand paid by the Des Moines Union Railway Company of Polk County, and State of Iowa, do hereby Sell And Convey unto the said Des Moines Union Railway Company the following described premises situated in the County of Polk and State of Iowa, to-wit: Lot number thirty-six (36) of Capital Addition now forming a part of the City of Des Moines.

And I do hereby covenant to Warrant And Defend the said premises against the lawful claims of all persons whomsoever claiming by, through or under us.

And Lydia Huttenlocher, wife of C. Huttenlocher hereby relinquishes her right of dower in and to the above described premises.

Signed this 18th day of October A. D., 1902.

C. HUTTENLOCHER,

LYDIA HUTTENLOCHER,

Duly acknowledged October 18, 1902. Filed for record in the office of the Recorder of Polk County, Iowa, on the 18th day of October, 1902, and recorded in Book 445, Page 429 of the records in said office.

1347

**Defendants' Exhibit 597.**

Know All Men By These Presents: That We, E. E. Cochran, widow of W. J. Cochran, and Josie M. Thorn and J. William Thorn, her husband, Mary E. Cochran, single, J. W. Cochran, single, D. A. Cochran, single, C. S. Cochran single, G. E. Cochran single and A. L. Cochran single, being all the children and all the heirs at law of W. J. Cochran, deceased, of Warren County, and State of Iowa, in consideration of the sum of Seventy-five Dollars, in hand paid by the Des Moines Union Railway Company of Polk County, and State of Iowa do hereby Sell And Convey Unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, to-wit:

Lot number thirty-five (35) in Capital Addition now forming a part of the city of Des Moines.

And we hereby covenant with the said Des Moines Union Railway Company that we hold said premises by good and perfect title; that we have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And we covenant to Warrant And Defend the said premises against the lawful claims of all persons whomsoever.

And the said William J. Thorn hereby relinquishes his right in and to the above described premises.

1348 Signed the 18th day of October A. D. 1902.

J. W. Cochran

C. S. Cochran

G. E. Cochran

A. L. Cochran

E. E. Cochran

D. A. Cochran

Josie M. Thorn

J. William Thorn

Mary E. Cochran

Duly acknowledged October 21st, 1902. Filed for record in the office of the Recorder of Polk County Iowa, on the 22d day of October, 1902, and recorded in Book 445 Page 462 of the records in said office.

1349

**Defendants' Exhibit 598.**

Know All Men By These Presents: That We, B. Beanblossom and Rena Beanblossom, husband and wife of Polk County, and State of Iowa in consideration of the sum of One hundred Dollars in hand paid by the Des Moines Union Railway Company of Polk County, and State of Iowa do hereby Sell and Convey unto the said Des Moines Union Railway Co.

the following described premises, situated in the County of Polk and State of Iowa, to-wit:

Lot Number thirty-seven (37) of Capital Addition now forming a part of the city of Des Moines.

And we hereby covenant with the said Des Moines Union Railway Company that we hold said premises by good and perfect title; that we have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And we covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever.

And the said Rena Beaudlossom hereby relinquishes her right in and to the above described premises.

Signed the 20th day of October A. D. 1902.

R. BEAUBLOSSOM,  
RENA BEAUBLOSSOM.

Duly acknowledged October 20th, 1902. Filed for record in the office of the Recorder of Polk County, Iowa, on the 15th day of November, 1902, and recorded in Book 445, Page 528 of the records in said office.

1351

### Defendants' Exhibit 599.

Know All Men By These Presents: That Bridget O'Connor a widow of Polk County, and State of Iowa in consideration of the sum of Thirty-five Dollars in hand paid by the Des Moines Union Railway Company of Polk County, and State of Iowa, do hereby Sell and Convey unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, to-wit:

Lot number nine (9) of the Official Plat of lots numbered one (1) two (2) nine (9) and ten (10) of Block twenty (20) town of Des Moines now forming a part of the city of Des Moines.

And I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title; that I have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And I covenant to Warrant and Defend the said premises against the lawful claims of all persons whomsoever.

Signed the 24th day of October A. D. 1902.

Witness:

Bloyle

Walter Mauthe.

BRIDGET O'CONNER

her

X

mark

1352 Duly acknowledged October 24, 1902. Filed for record in the office of the Recorder of Polk County Iowa, on the 27th day of June, 1907, and recorded in Book 531 on Page 203 of the records in said office.

1353

### **Defendants' Exhibit 600.**

Know All Men By these Presents: That the Des Moines Western Railway Company, a corporation organized and existing under the Laws of the State of Iowa, of the County of Polk and State of Iowa, in consideration of the conveyance to this Company by the Des Moines Union Railway Company, of certain real estate, in the city of Des Moines described in a certain deed dated March 16th 1903, and of the sum of One Dollar in hand paid by the said Des Moines Union Railway Company, does hereby sell and convey unto the said Des Moines Union Railway Company the following described premises situated in the County of Polk and State of Iowa, to-wit:

The south seventeen (17) feet of lots seven (7) and sixteen (16) in block fourteen, Town of Demoine; the following described portion of lot seven (7), block thirteen (13) Town of Demoine—beginning at a point on the west line of said lot seven (7) eleven and two-tenths (11.2) feet north of the southwest corner of said lot seven; thence south eleven and two-tenths (11.2) feet to the southwest corner of lot seven; thence east along south line of said lot ninety-eight and nine-tenths (98.9) feet; thence northwesterly on a  $3^{\circ} 10'$  curve to the left to the point of beginning. The following described portion of lot fifteen (15) block twelve (12) Town of Demoine—beginning on the west line of said lot fifteen

1354 (15) thirty and eight-tenths (30.8) feet north of the southwest corner of lot fifteen (15); thence south thirty and eight-tenths (30.8) feet to the southwest corner of said lot; thence east along the south line of lot fifteen one hundred thirteen and six-tenths (113.6) feet; thence northwesterly on a  $3^{\circ} 10'$  curve to the left, to the point of beginning. All of lot twelve (12) in block twelve (12) Town of Demoine; all of lot eleven (11) of the Official Plat of lots one, (1) two (2) nine (9) and ten (10) in block twenty (20) Town of Demoine,—all of the above being now included in the corporate limits of the City of Des Moines, Iowa.

And the said Des Moines Western Railway Company hereby covenants with the said Des Moines Union Railway Company that it holds said premises by good and perfect title, that it has good right and lawful authority to sell and convey the same, that they are free and clear of all liens and incumbrances whatsoever. And it covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever. This conveyance and exchange of property is made in pursuance of a resolution passed by the Board of Directors of the Des Moines Western Railway Company on March 16th 1903.

1355 In Witness Whereof the Des Moines Western Railway Co. has caused these presents to be signed by its President and Secretary, and attach- its seal hereto this 16th day of March 1903.

(Seal)

DES MOINES WESTERN RAILWAY  
COMPANY,

By F. M. Hubbell, President.

Attest :

H. D. Thompson,  
Secretary.

Duly acknowledged March 16th, 1903. Filed for record in the office of the Recorder of Polk County, Iowa, on the 26th day of March, 1903, and recorded in Book 455, Page 282 of the records in said office.

1356

### **Defendants' Exhibit 601.**

Know All Men By These Presents :

That we, James Callahan and Catharine Callahan, husband and wife, of the County of Polk and State of Iowa, in consideration of the sum of Five Dollars in hand paid by the Des Moines Union Ry. Co. of the County of Polk and State of Iowa do hereby sell, convey and forever Quit Claim unto the said Des Moines Union Railway Co. all our right, title and interest in and to the following described premises situated in Polk County, and State of Iowa, to-wit: Lot number nine (9) of the Official Plat of Lots numbered one (1) two (2) nine (9) and ten (10) of Block twenty (20) in the town of Desmoine now in the city of Des Moines, Iowa.

And the said Catharine Callahan hereby relinquishes her right in and to the above described premises.

Signed this 28th day of March 1903.

Witness

Thomas Lally  
C. Huttenlocher.

his  
JAMES x CALLAHAN  
mark

her  
CATHARINE x CALLAHAN.  
mark

Duly acknowledged March 28, 1903. Filed for record in the office of the Recorder of Polk County, Iowa, on the 27th day of June 1907, and recorded in Book 515 Page 445 of the records in said office.

1357

### Defendants' Exhibit 602.

Know All Men By These Presents: That we, James Watt and Mary C. Watt, husband and wife, of Polk County and State of Iowa, in consideration of the sum of One Dollar in hand paid by the Des Moines Union Railway Company of Polk County and State of Iowa, and the advantages to be derived as hereinafter stated, do hereby grant unto the Des Moines Union Railway Company the right-of-way over and across the following described premises situated in the County of Polk and State of Iowa, to-wit:

The north eleven (11) feet of the following described real estate—Lots five (5) six (6) seven (7) eight (8) and nine (9) in block thirty-four (34) of Keene & Poindexter's Addition to Fort Des Moines, and lot three (3) of Keene & Poindexter's official Plat all in the City of Des Moines.

Said Des Moines Union Railway Company shall use the said track to be located and constructed on said premises as a sidetrack and not for a main track, and shall use the same for the convenience of said James Watt, his grantees and assigns, and other parties doing business along said track, or any extension thereof easterly, hereafter made. The grantee hereof, will within a reasonable time, after being requested so to do by said grantor or his assigns, place cars on said side track in such places as may be requested,—empty cars for loading, or loaded cars for unloading, all proper charges having previously been paid, and will allow them to  
1358 stand on said sidetrack for such purpose for a reasonable time, and will within a reasonable time after being so requested, remove from said sidetrack any loaded cars that have been placed thereon for said parties.

And we hereby covenant with the Said Des Moines Union Railway Company that we hold said premises by good and perfect title; that we have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And we covenant to warrant and defend the said premises against the lawful claims of all persons whomsoever.

And the said Mary C. Watt hereby relinquishes her right in and to the above described premises.

Signed this first day of October, A. D. 1903.

JAMES WATT  
MARY C. WATT.

Duly acknowledged October 1, 1903. Filed for record in the office of the Recorder of Polk County, Iowa, on the 27th day of November, 1903, and recorded in Book 473, Page 13 of the records in said office.

1359

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**Defendants' Exhibit 603.**

Know All Men By These Presents: That we, Frederick M. Hubbell, Frederick C. Hubbell and Grover C. Hubbell as Trustees of the Frederick M. Hubbell Estate of Polk County, and State of Iowa in consideration of the sum of Six Hundred Fifty Dollars, in hand paid by Des Moines Union Railway Company of Polk County, and State of Iowa do hereby Sell And Convey unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, to-wit:

The north eleven (11) feet of the following described real estate to-wit: Lots numbered seven (7) Eight (8) nine (9) and ten (10) in block thirty-nine (39) of Jonathan Lyon's Addition to Fort Des Moines, and of Lot four (4) of the Official Plat of Keene & Poindexter's Addition as filed for record April 9th, 1897, all being in the City of Des Moines. Said strip of ground is to be used for railroad purposes.

And we hereby covenant with the said Des Moines Union Railway Company that we hold said premises by good and perfect title; that we have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And we covenant to Warrant And Defend the said premises against the lawful claims of all persons whomsoever.

1360 Signed the 12th day of November A. D. 1903.

TRUSTEES OF THE FREDERICK M.  
HUBBELL ESTATE,

By Frederick M. Hubbell,  
Frederick C. Hubbell,  
Grover C. Hubbell.

Duly acknowledged by Frederick M. Hubbell and Frederick C. Hubbell, Trustees, November 13, 1903, and by Grover C. Hubbell, Trustee, November 17, 1903. Filed for record in the office of the Recorder of Polk County, Iowa, on the 24th day of November, 1903 and recorded in Book 459, Page 5 of the records in said office.

1361

### **Defendants' Exhibit 604.**

Know All Men By These Presents: That F. M. Hubbell and Frances E. Hubbell husband and wife of Polk County and State of Iowa in consideration of the sum of Three Hundred and fifty Dollars in hand paid by Des Moines Union Railway Company of Polk County, and State of Iowa, do hereby Sell And Convey unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, to-wit: The north eleven (11) feet of lot number eleven (11) in block number thirty-nine (39) on Jonathan Lyon's Addition to Fort Des Moines now in the city of Des Moines, Iowa.

And we hereby covenant with the said Des Moines Union Railway Company that we hold said premises by good and perfect title; that we have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And we covenant to Warrant And Defend the said premises against the lawful claims of all persons whomsoever.

And the said Frances E. Hubbell hereby relinquishes her right in and to the above described premises.

Signed the 12<sup>th</sup> day of November A. D. 1903.

F. M. HUBBELL,  
FRANCES E. HUBBELL,  
By F. C. Hubbell, her Atty. in fact.

- 1362 Duly acknowledged November 12, 1903. Filed for record in the office of the Recorder of Polk County, Iowa, on the 24th day of November, 1903, and recorded in Book 459, Page 4 of the records in said office.

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**Defendants' Exhibit 605.**

1363 Know All Men By These Presents: That Annie S. Redhead a widow of Polk County, and State of Iowa in consideration of the sum of Five Hundred Dollars in hand paid by Des Moines Union Railway Company of Polk County, and State of Iowa do hereby Sell And Convey unto the said Des Moines Union Railway Company the following described premises, situated in the County of Polk and State of Iowa, to-wit:

Lot number two (2) of the Official Plat of Lot number twenty (20) of Brooks & Company's Addition to the city of Des Moines being all of said lot twenty (20) of said Brooks & Company's Addition which lies south of the railroad right of way of the Des Moines Valley Railroad.

And I hereby covenant with the said Des Moines Union Railway Company that I hold said premises by good and perfect title; that I have good right and lawful authority to sell and convey the same; that they are free and clear of all liens and incumbrances whatsoever.

And I covenant to Warrant And Defend the said premises against the lawful claims of all persons whomsoever.

Signed the 24th day of November A. D. 1903.

ANNIE S. REDHEAD.

- 1364 Duly acknowledged November 24, 1903. Filed for record in the office of the Recorder of Polk County, Iowa, November 24, 1903, and recorded in Book 459, Page 15 of the records in said office.

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**Defendants' Exhibit 606.**

1365 Know All Men By These Presents: That The Chicago, Rock Island & Pacific Railway Company, a corporation existing under the laws of the States of Illinois, and Iowa, in consideration of the sum of One Dollar (\$1.00) to it paid by the Des Moines Union Railway Company, and other good and valuable considerations, the receipt whereof is hereby acknowledged, does hereby sell and convey unto the said Des Moines Union Railway Company, the following described property situated in the County of Polk, and State of Iowa, to-wit:

In block sixteen (16), Town of Des Moines; the north twenty-five (25) feet of lots fourteen and nine (9).

In block fifteen (15), Town of Des Moines; the north fourteen (14) feet of lots nine (9), ten (10), eleven (11), twelve (12), thirteen (13) and fourteen (14).

In block fourteen (14), Town of Des Moines; commencing at the northwest corner of lot fourteen (14) of said block, thence easterly along the northerly line of said lot fourteen (14) to the northeast corner thereof; thence southerly along the easterly line of said lot fourteen (14) fifteen and eight-tenths (15.8) feet, thence westerly in a direct course to a point in the west line of said lot fourteen (14), 14 feet southerly from the place of commencement, thence northerly to the place of beginning.

Also commencing at the north west corner of lot nine (9) of said block fourteen (14), thence easterly along the northerly line of said lot nine (9) to the northeast corner thereof; thence southerly along the easterly line of said lot nine (9), thirty-seven (37) feet; thence westerly in a direct course to a point in the west line of said lot nine (9), sixteen and five-tenths (16.5) feet southerly from the place of commencement; thence northerly to the place to commencement.

In block thirteen (13), Town of Des Moines: Commencing at the north west corner of lot fourteen (14) of said block; thence easterly along the northerly line of said lot fourteen (14) to the north east corner thereof; thence southerly along the easterly line of lots fourteen (14) and thirteen (13) of said block, sixty-one (61) feet; thence westerly in a direct course to a point in the west line of said lot fourteen (14) forty-seven and nine-tenths (47.9) feet southerly from the place of commencement; thence northerly to the place of commencement.

Also commencing at the north west corner of lot ten (10) of said block thirteen (13); thence easterly along the northerly line of said lot ten (10) to the north east corner thereof; thence southerly along the easterly line of said lot ten (10), twenty-five and nine-tenths (25.9) feet; thence westerly in a direct course to a point in the west line of said lot ten (10) six and three-tenths (6.3) feet southerly from the place of commencement; thence northerly to the place of commencement.

All of the above described real estate being now included in and forming a part of the City of Des Moines, Iowa.

To Have And To Hold the same, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining unto said Des Moines Union Railway Company, its successors and assigns, forever.

And the said The Chicago, Rock Island & Pacific Railway Company, for itself, and its successors and assigns, does hereby covenant and agree to and with said Des Moines Union Railway Company, its successors and assigns, that the said property above described, against all the claims of all persons, firms or corporations claiming, or to claim by, through or under it, only it will forever warrant and defend.

In Witness Whereof, said The Chicago, Rock Island & Pacific Railway Company has caused this indenture to be signed by its Vice-President, and its corporate seal to be hereunto affixed and the same to be attested by its Secretary this 25th day of February, A. D. 1908.

(Seal) THE CHICAGO, ROCK ISLAND AND  
PACIFIC RAILWAY COMPANY,  
By H. U. Mudge, Second Vice-President.

Attest: ..... Ass't. Secretary.

Duly acknowledged February 25th, 1908. Filed for record in the office of the Recorder of Polk County, Iowa, April 10, 1908, and recorded in Book 510, Page 418 of the records in said office.

#### 1369 **Defendants' Exhibit 607.**

Know All Men By These Presents; That the City of Des Moines, a Municipal Corporation of the County of Polk and State of Iowa, for the consideration of One Dollar hereby quit claims to the Des Moines Union Railway Company of Des Moines, Polk County, Iowa, a corporation organized and existing under the laws of the State of Iowa, the following described real estate situated in the County of Polk and State of Iowa, to-wit:

All of Nineteenth Street and Vine Street, lying between lots nineteen, twenty, twenty-three, and twenty-four (19, 20, 23, 24) Brooks & Company's Addition, now included in and forming a part of the City of Des Moines, Iowa, which lies south and east of a line fifty (50) feet south of and extending parallel with the center line of the main track of the Keokuk & Des

Moines Division of the Chicago, Rock-Island & Pacific Railway, as now located and constructed over and across said streets and lots, Provided, however, that the City of Des Moines shall retain the right to lay, construct, maintain, and repair sewers, water pipe, and conduits and to authorize the same to be laid, constructed, maintained, and repaired, on, in and under all of the streets and parts of streets herein vacated. The intention of this dedication and grant being to convey to the Des Moines Union Railway Company herein mentioned, title to the several parts of streets vacated as provided 1370 in Ordinance #1256, and this deed is made under and by virtue of said Ordinance.

In Witness Whereof, the City of Des Moines Has caused these presents to be executed by its Mayor and City Clerk, and caused the Seal of said City to be hereto attached; this 10th day of March, 1906.

CITY OF DES MOINES, IOWA.

By G. W. Matteen, Mayor.

By S. B. Vertrees, City Clerk.

Duly acknowledged March 10, 1906. Filed for record in the office of the Recorder of Polk County, Iowa, on the 3d day of April, 1906, and recorded in Book 515, Page 67 of the records in said office.

1371

### **Defendants' Exhibit 608.**

Know All Men By These Presents:

That Charles A. Rawson and Carrie Rawson, his wife; Hollis A. Rawson and Kate Rawson, his wife; Harry D. Rawson and Louise Rawson, his wife, and J. Scott Rawson and Grace Rawson, his wife, being the heirs and only heirs of A. Y. Rawson, deceased, late, of the County of Polk and State of Iowa, in consideration of One and no/100 dollars in hand paid by Des Moines Union Railway Company of the County of Polk and State of Iowa do hereby Remise, Release and Quit-claim unto the said Des Moines Union Railway Company all their right, title and interest in and to the following described premises, with all appurtenances thereunto belonging, situated in the County of Polk and State of Iowa to-wit: Lot One (1) in Block Twenty-one (21) in the Town of Des Moines, now included in and forming a part of the city of Des Moines, Iowa.

And the said Carrie Rawson, Kate Rawson, Louise Rawson and Grace Rawson hereby relinquish their right of dower in and to the foregoing described premises.

Signed this 31st day of December A. D. 1907.

CARRIE RAWSON  
C. A. RAWSON  
B. H. BRADSHAW.

LOUISE RAWSON  
KATE RAWSON  
HOLLIS A. RAWSON  
HARRY J. RAWSON  
JOSEPH S. RAWSON  
GRACE RAWSON.

Duly acknowledged by C. A. Rawson and Carrie Rawson, his wife, Hollis A. Rawson and Kate Rawson, his wife; Harry J. Rawson and Louise Rawson, his wife, January 17, 1908.

Duly acknowledged by J. Scott Rawson and Grace Rawson, his wife, January 6, 1908.

Filed for record in the office of the Recorder of Polk County, Iowa, January 18, 1908, and recorded in Book 515, Page 620 of the records of said office.

1372

### **Defendants' Exhibit 609.**

J. S. Polk

P. M. Hubbell.

Office of Polk & Hubbell.

Des Moines, Iowa, October 18th 1887.

A. A. Talmage, Esq., Executors,  
St. Louis, Missouri.

Dear Sir:—At a meeting of the Des Moines Union Railway Co., recently held it was determined to call a meeting of the stockholders of that company, to be held November 1st, 1887, at the company's office in Des Moines, Iowa, for the purpose of amending the articles of incorporation.

It is absolutely necessary that the stock be represented at that time. If you cannot be present personally, I hope you will appoint some one as your proxy here.

I enclose a blank proxy which was prepared by Mr. Polk, who is now at Hot Springs, but he will be here on the day set for the meeting.

Yours truly,

P. M. HUBBELL.

1373

**Defendants' Exhibit 610.**

I, Mary R. Talmage, executrix of the last will and testament of Archibald A. Talmage, deceased, do hereby sell, assign transfer and set over unto James F. How the one share of the capital stock of the Des Moines Union Railway Company, standing in the name of my said decedent on the books of the said company.

Witness my hand and seal this 20th day of ..... 1887.

MARY R. TALMAGE. (Seal)

Signed, sealed  
& Delivered in  
presence of

Henry A. Lloyd.

1374

**Defendants' Exhibit 611.**

Know All Men By These Presents:

That I ..... a stockholder in the Des Moines Union Railway Company, and owning one share of the capital stock, of said company, do hereby constitute and appoint ..... of Des Moines, Iowa, my lawful agent, and attorney, for me, and in my name to appear at the meeting of the stockholders of said company, to be held at the office of the company in Des Moines, Iowa, between the hours of 10 o'clock a. m. and 4 o'clock p. m. of the 1st day of November 1887, for the purpose of amending Article 3 of the Articles of Incorporation of this company, so as to increase the Capital stock of the company to two million (2,000,000) dollars, and considering the question of issuing \$1,000,000 of Bonds of the Company, secured by mortgage on its property to pay for constructing, and improving said railway, and property, and for the transaction of any other business coming before said meeting, or at any adjournment thereof, and then, and there for me, and in my name to cast the vote to which I am entitled as a stockholder, and which I might cast if present.

Witness my hand this 21 day of October, 1887.

A. L. HOPKINS.

Witness

J. C. Otteson.

1375

**Defendants' Exhibit 612.**

Know All Men By These Presents:

That I ..... a stockholder in the Des Moines Union Railway Company, and owning one share of the capital stock, of said company, do hereby constitute and appoint ..... of Des Moines, Iowa, my lawful agent, and attorney, for me, and in my name to appear at the meeting of the stockholders of said company, to be held at the office of the company in Des Moines, Iowa, between the hours of 10 o'clock a. m. and 4 o'clock p. m. of the 1st day of November 1887, for the purpose of amending Article 3 of the Articles of Incorporation of this company, so as to increase the capital stock of the company to two million (2,000,000) dollars, and considering the question of issuing \$1,000,000 of Bonds of the Company, secured by mortgage on its property to pay for constructing, and improving said railway, and property, and for the transaction of any other business coming before such meeting, or at any adjournment thereof, and then, and there for me, and in my name to cast the vote to which I am entitled as a stockholder, and which I might cast if present.

Witness my hand this .... day of October, 1887.

C. M. DODGE.

Witness

.....

1376

**Defendants' Exhibit 613.**

Know All Men By These Presents:

That I ..... a stockholder in the Des Moines Union Railway Company, and owning two shares of the capital stock, of said company, do hereby constitute and appoint J. E. Polk, of Des Moines, Iowa, my lawful agent, and attorney, for me, and in my name to appear at the meeting of the stockholders of said company, to be held at the office of the company in Des Moines, Iowa, between the hours of 10 o'clock a. m. and 4 o'clock p. m. of the 1st day of November 1887, for the purpose of amending Article 3 of the Articles of Incorporation of this company, so as to increase the capital stock of the company to two million (2,000,000) dollars, and considering the question of issuing \$1,000,000 of Bonds of the Company, secured by mortgage on its property to pay for constructing, and improving said railway, and property, and for the transaction of any other business coming before said meeting, or at any adjournment thereof, and then, and there for me, and in my name to cast the vote to

which I am entitled as a stockholder, and which I might cast if present.

Witness my hand this 27<sup>th</sup> day of October 1887.

Witness

JAMES F. HOW.

Wm. R. Glading.

1377

### **Defendants' Exhibit 614.**

#### **Notice.**

Notice is hereby given that the articles of incorporation of the Des Moines Union Railway Company, were on the 8th day of April, 1890 amended in the following particulars.

The authorized capital stock of the company is two million dollars (\$2,000,000.00) divided into shares of one hundred dollars (\$100.00).

Four thousand shares are issued as a part of the purchase price of the terminal property at Des Moines originally acquired by the company. The remaining shares are to be issued only by the authority of a resolution of the stockholders adopted by more than seven-eighths ( $\frac{7}{8}$ ) of the stock, and to be paid for either in money or property at the time certificates therefor are issued.

The corporation is to be managed by a board of eight directors, to be elected on the first Thursday of January of each year, by the vote of more than seven-eighths of all the stock.

The board of directors are to elect the officers of the company, who are a president, vice-president secretary and treasurer, said officers to hold their offices for one year or until their successors are elected and qualified and they are to be elected annually on the first Thursday of January.

It is not necessary in order to entitle the company to carry on the business for which it was organized that all of its capital stock be subscribed or taken.

Witness my hand this 23rd day of April, 1890.

G. M. DODGE, President.

Attest:

F. M. Hubbell, Secretary.

1378

**Defendants' Exhibit 615.****Affidavit of Publication.**

State of Iowa, }  
 Polk County } ss.

I, B. L. Harding, being sworn say that I am Business Manager of The Des Moines Leader, a newspaper of general circulation, published regularly in Des Moines, Polk County, Iowa, and that the notice of which the annexed is a printed copy, was printed in said Des Moines Leader for 4 consecutive weeks the first publication being on the 24th day of April 1890 and the last on the 20th day of May 1890.

**B. L. HARDING.**

Subscribed and sworn to by the said B. L. Harding, before me and in my presence, this 21st day of May, 1890.

**HENRY J. WILLIAMS,**  
 Notary Public in and for Polk  
 County, Iowa.

Publisher's Fees, \$7.50.

Henry J. Williams  
 Iowa.

Notarial Seal. (\*\*)

1379

**Defendants' Exhibit 616.**

Know All Men By These Presents, That We The Purchasing Committee of the Wab., St. Louis & Pacific Ry. & J. F. How do hereby constitute and appoint Charles M. Hays Attorney and Agent for me and in my name, place and stead, to vote as my proxy at the annual meeting of the Stockholders of the Des Moines Union Railway Co. to be held in Des Moines, Iowa, January 6, 1893 according to the number of votes we should be entitled to cast if then present.

In Witness Whereof, I have hereunto set my hand and seal  
 this ..... day of ..... one thousand eight hundred  
 and .....

**THE PURCHASING COMMITTEE,**  
 By O. D. Ashley, Secy. (Seal)  
 James F. How.

Scaled and delivered in the presence of  
 J. C. Otteson.

1380

**Defendants' Exhibit 617.**

Know All Men By  
These Presents, that

{	James F. Joy	{	Purchasing Committee Trustees.
	T. H. Hubbard,		
	Edgar T. Welles,		
	O. D. Ashley,		

Stockholders in the Des Moines Union Railway Co. owners of Four Hundred and ninety eight Shares, have made, constituted and appointed Charles M. Hays of St. Louis, Mo. lawful agent and attorney for us and in our name to appear at the annual meeting of the Stockholders of said Company, to be held in the City of Des Moines, Iowa, on the twenty-fifth day of January A. D. 1894 for the transaction of any business which may come before said meeting, or any adjournment thereof, and then and there for us and in our names to cast the vote to which we are entitled as Stockholders, and which we might cast if present.

Witness our hand and seal this 19th day of January A. D. 1894.

JAMES F. JOY, T. H. HUBBARD, EDGAR T. WELLES, O. D. ASHLEY,	{	Purchasing Committee Trustees.

By O. D. Ashley, Secretary. (Seal)

Witness:

J. C. Otteson.

1381

**Defendants' Exhibit 618.****Power of Attorney.**

Know All Men By These Presents: That I, Chas M. Hays, a Director in the Des Moines Union Railway Company, do hereby constitute and appoint A. B. Cummins of Des Moines, Iowa, my lawful agent, and attorney, for me, and in my name, to appear at the meeting of the Board of Directors of said Company, to be held at the office of the Company in Des Moines, Iowa, on the 14<sup>th</sup> day of November 1894, for the transaction of any business coming before such meeting or at any adjournment thereof, pertaining to the renewal at a lower rate of interest, of the floating debt of said Company, and then and there, for me, and in my name, to cast the vote to which I am entitled as a Director, and which I might cast if present.

Witness my hand this 12th day of November, 1894.

CHAS. M. HAYS.

Witness:

Henry Philips.

1382

### Defendants' Exhibit 619.

Know All Men By These Presents: That we, James F. Joy, Thomas H. Hubbard, Ossian D. Ashley and Edgar T. Welles, Purchasing Committee, Trustees, do hereby constitute and appoint Chas. M. Hays Attorney or Agent for us and in our name to vote as our proxy at the Annual Meeting of the Stockholders of the Des Moines Union Railway Company, to be held at Des Moines, Iowa on Wednesday, January 30, 1895.

And we do hereby authorize the person above named to vote as our proxy at said meeting, or any adjournment thereof, according to the number of votes we should be entitled to vote if then personally present.

In Witness Whereof, we have hereunto set our hand and seal this 25th day of January, one thousand eight hundred and ninety-five.

JAMES F. JOY,  
T. H. HUBBARD,  
EDGAR T. WELLES,  
O. D. ASHLEY,

} Purchasing Committee  
Trustees.

By O. D. Ashley, Secretary.

Sealed and Delivered  
in the presence of:

J. C. Otteson.

1383

### Defendants' Exhibit 620.

The Western Union Telegraph Company.

Received at 222-4th St. Des Moines.

96 CH DI RO 36 DIH

St. Louis, Mo. Feb. 26-97.

A. B. Cummins, Atty. Des Moines, Ia.

In order to consider the changes suggested in contract with terminal company in connection with Amended articles of incorporation we would like to have the contract with changes suggested. Can you send it down by mail?

WELLS H. BLODGETT.

2:27 P. M.

1384

**Defendants' Exhibit 621.**

Know All Men By These Presents, That I, H. L. Magee, a Director in the Des Moines Union Railway Company, do hereby constitute and appoint A. B. Cummins of Des Moines, Iowa, my lawful agent and attorney for me and in my name to appear at the meeting of the Board of Directors of said Company, to be held at the office of the Company in Des Moines, Iowa, on the 20 day of September 1897, for the purpose of ratifying and approving a certain contract dated July 31st 1897, entered into by and between the Des Moines Union Railway Company, the Wabash Railroad Company, and the Des Moines, Northern & Western Railroad Company, and then and there for me and in my name, to cast the vote to which I am entitled as a Director, and which I might cast if present.

Witness my hand this 16 day of September, 1897.

HENRY L. MAGEE.

1385

**Defendants' Exhibit 622.**

Know All Men By These Presents, That I, J. Ramsey, Jr., a Director in the Des Moines Union Railway Company, do hereby constitute and appoint A. B. Cummins of Des Moines, Iowa, my lawful agent and attorney for me and in my name to appear at the meeting of the Board of Directors of said Company, to be held at the office of the Company in Des Moines, Iowa, on the 20 day of September 1897, for the purpose of ratifying and approving a certain contract dated July 31st 1897, entered into by and between the Des Moines Union Railway Company, the Wabash Railroad Company, and the Des Moines, Northern & Western Railroad Company, and then and there for me and in my name, to cast the vote to which I am entitled as a Director, and which I might cast if present.

Witness my hand this 16th day of September, 1897.

J. RAMSEY, JR.

1386

**Defendants' Exhibit 623.**

Minutes of the Adjourned Meeting of the Board of Directors of the Des Moines Union Railway Company, held at the office of the Secretary of the Company on Monday, September 20th, 1897.

F. C. Hubbell, President, presiding.

There were present in person, Directors F. C. Hubbell, F. M. Hubbell, A. N. Denman, A. B. Cummins, C. Huttenlocher

and H. D. Thompson, and Directors J. Ramsey, Jr. and H. L. Magee, by written proxies to A. B. Cummins, duly filed with the Secretary.

The contract entered into between the Des Moines Union Railway Company, the Wabash Railroad Company, and the Des Moines, Northern & Western Railroad Company, dated July 31st, 1897, was presented to the Board of Directors for approval, and thereupon A. B. Cummins offered the following resolution, viz:

Resolved, by the Board of Directors of the Des Moines Union Railway Company, that the contract bearing date July 31st 1897, entered into by and between the Des Moines Union Railway Company, the Wabash Railroad Company, and the Des Moines Northern & Western Railroad Company, which contract has been signed by their respective Presidents and Secretaries, and which embraces 17 pages, be and the same is hereby ratified, approved, and in all respects confirmed on part of the Des Moines Union Railway Company, and the Secretary of this Company is hereby authorized to attach to said contract a certified copy of this resolution. Adopted unanimously.

There being no further business before the Board, the meeting adjourned, sine die.

F. M. HUBBELL,  
Secretary.

1387

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**Defendants' Exhibit 624.**

**The Wabash Railroad Company.**

Office

J. Ramsey Jr. Vice Pres't & Gen'l Manager.

St. Louis, Mo. Feb. 9th, 1898.

Mr. F. M. Hubbell,

Ser'y., Des Moines Union Ry. Co.  
Des Moines, Iowa.

Dear Sir:

I return herewith proxies signed by myself and Mr. Magee, as Directors, for the meeting to be convened at the office of the Secretary, for the purpose of electing officials and transacting such other business as may come before the meeting. We will accept our portion of the bonds at par.

Very truly yours,

J. RAMSEY, JR.,  
Vice Prest. & Gen. Mgr.

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1388

**Defendants' Exhibit 625.**

Know All Men By These Presents: That we, Jos. Ramsey, Jr. and H. L. Magee, Directors in the Des Moines Union Railway Company, do hereby constitute and appoint F. M. Hubbell of Des Moines, Iowa, our lawful agent and attorney, for us and in our names to appear at the meeting of the Directors of said Company to be held at the office of the Company in Des Moines, Iowa, between the hours of 10 o'clock a. m. and 4 o'clock p. m. of the 29th day of January, 1898, and at that time vote for the election of officers of said Company and to issue forty-seven (47) of the Company's bonds in payment of \$47,000 of indebtedness, as set out in the copy of resolutions and minutes hereto attached, and then and there for us and in our names, to cast the vote to which we would be entitled as Directors, and which we might cast if present.

Witness our hands this 28th day of January 1898.

J. RAMSEY, JR.  
HENRY L. MAGEE.

1389

**Defendants' Exhibit 626.**

(Proxy)

Know All Men By These Presents, That, O. D. Ashley, Edgar T. Welles & T. H. Hubbard, Purchasing Committee Trustees hereby constitute and appoint ..... our attorney to vote as our proxy, according to the number of votes we should be entitled to vote if personally present at the Annual Meeting of the Stockholders of the Des Moines Union Railway Company to be held at the office of said Company, in Des Moines, Ia, on the 6th day of January 1898 and at any adjournment or adjournments thereof, and we hereby empower and authorize our said attorney to vote for us and in our name, place and stead for Directors of said Company; and also to vote and act in any other business which may be brought before the said Annual Meeting, or any adjournment or adjournments thereof, and generally in our name and stead, to vote and act in the premises as completely and effectually as we could do if personally present, and to act by one or more substitutes or attorneys; thereby revoking any proxy heretofore given.

In Witness Whereof we have hereunto set our hands this 31st day of December, 1897.

In presence of  
J. C. Otteson as to  
O. D. Ashley,  
Edgar T. Welles and  
T. H. Hubbard.

O. D. ASHLEY  
EDGAR T. WELLES  
THOS. H. HUBBARD.

1390

**Defendants' Exhibit 627.**

(Proxy)

Know All Men By These Presents, That, O. D. Ashley, Edgar T. Welles & T. H. Hubbard, Purchasing Committee Trustees hereby constitute and appoint ..... our attorney to vote as our proxy, according to the number of votes we should be entitled to vote if personally present at the Annual Meeting of the Stockholders of the Des Moines Union Railway Company to be held at the office of said Company, in Des Moines, Ia, on the 6th day of January 1898 and at any adjournment or adjournments thereof, and we hereby empower and authorize our said attorney to vote for us and in our name, place and stead for Directors of said Company; and also to vote and act in any other business which may be brought before the said Annual Meeting, or any adjournment or adjournments thereof, and generally in our name and stead, to vote and act in the premises as completely and effectually as we could do if personally present, and to act by one or more substitutes or attorneys; hereby revoking any proxy heretofore given.

In Witness Whereof we have hereunto set our hands this 31st day of December, 1897.

In presence of  
J. C. Otteson as to  
O. D. Ashley,  
Edgar T. Welles and  
T. H. Hubbard.

O. D. ASHLEY  
EDGAR T. WELLES  
THOS. H. HUBBARD.

1391

**Defendants' Exhibit 628.**

Know All Men By These Presents: That we, Jos. Ramsey, Jr. and H. L. Magee, Directors of the Des Moines Union Railway Company, do hereby constitute and appoint F. M. Hubbell of Des Moines, Iowa, our lawful agent and attorney, for us and in our names to appear at the meeting of Directors of said Company to be held at the office of the Company in Des Moines, Iowa, between the hours of 10 o'clock A. M. and 4 o'clock P. M. of the 31st day of March, 1898, and at that time vote in favor of the Resolution authorizing the Des Moines Union Railway Company to purchase the north forty-four (44) feet of lot three (3) and the north forty-four (44) feet of lot six (6) in block fifteen (15) of the Original Town of Fort Des Moines, Iowa, for \$25,000, said amount to be paid with twenty-five (25) of the First Mortgage Bonds of the Des Moines Union Railway Company, and then and there for us and in

our names, to cast the vote to which we would be entitled as Directors, and which we might cast if present.

Witness our hands this 29th day of March, 1898.

J. RAMSEY, JR.  
H. L. MAGEE.

1392

### Defendants' Exhibit 629.

Know All Men By These Presents, That I, Joseph Ramsey, Jr., do hereby constitute and appoint F. M. Hubbell attorney or agent for me and in my name to vote as my proxy at a special meeting of the Des Moines Union Railway Company, to be held at Des Moines, Iowa, on March 14, 1899, for the purpose of obtaining the consent of the Des Moines Union Railway Company to an assignment by the Wabash Railroad Company to the Continental Trust Company of the City of New York of the two contracts dated respectively on the 10th day of May, 1889, and July 31st, 1897, between the Des Moines Union Railway Company and the Des Moines and St. Louis Railroad Company, the Wabash Railroad Company and other companies, as provided for in a certain mortgage made by the Wabash Railroad Company to the Continental Trust Company of the City of New York, dated on or about the first day of January, 1899, and to the consent to the assignments or conveyances that have been made or that may be hereafter made by the Wabash Purchasing Committee to the Wabash Railroad Company, or that have been made or may be hereafter made by the Wabash Railroad Company to the Continental Trust Company of the City of New York of Five Hundred shares of the capital stock of the Des Moines Union Railway Company, in accordance with the terms of said mortgage, and in order to give effect to its provisions, and I do hereby authorize the said F. M. Hubbell to vote as my proxy at said meeting or any adjournment thereof according to the number of votes I should be entitled to vote if then personally present.

In Witness Whereof, I have hereunto set my hand and seal this 11th day of March, one thousand eight hundred and ninety-nine.

J. RAMSEY, JR.

Sealed and delivered in the presence of R. J. Woods.

1393

### Defendants' Exhibit 630.

Know All Men By These Presents, That I, Henry L. Magee, do hereby constitute and appoint F. M. Hubbell attorney or agent for me and in my name to vote as my proxy

at a special meeting of the Des Moines Union Railway Company, to be held at Des Moines, Iowa, on March 14, 1899, for the purpose of obtaining the consent of the Des Moines Union Railway Company to an assignment by the Wabash Railroad Company to the Continental Trust Company of the City of New York of the two contracts dated respectively on the 10th day of May, 1889, and July 31st, 1897, between the Des Moines Union Railway Company and the Des Moines and St. Louis Railroad Company, the Wabash Railroad Company and other companies, as provided for in a certain mortgage made by the Wabash Railroad Company to the Continental Trust Company of the City of New York, dated on or about the first day of January, 1899, and to the consent to the assignments or conveyances that have been made or that may be hereafter made by the Wabash Purchasing Committee to the Wabash Railroad Company, or that have been made or may be hereafter made by the Wabash Railroad Company to the Continental Trust Company of the City of New York of Five Hundred shares of the capital stock of the Des Moines Union Railway Company, in accordance with the terms of said mortgage, and in order to give effect to its provisions, and I do hereby authorize the said F. M. Hubbell to vote as my proxy at said meeting or any adjournment thereof according to the number of votes I should be entitled to vote if then personally present.

In Witness Whereof, I have hereunto set my hand and seal this 11th day of March, one thousand eight hundred and ninety-nine.

H. L. MAGEE.

Sealed and delivered in presence of

Witness

S. E. Cotter.

1394

### **Defendants' Exhibit 631.**

Know All Men By These Presents,

That we do hereby constitute and appoint Jos. Ramsey, Jr. attorney or agent for us, and our names to vote as our proxy at the meeting of the stockholders of the Des Moines Union Railway Company, to be held at Des Moines, Iowa, October 3, 1899.

And we do hereby authorize the person above named to vote as our proxy at said meeting, or any adjournment thereof, according to the number of votes we should be entitled to vote if then personally present.

In Witness Whereof, we have hereunto set our hand and seal  
this 27th day of September, one thousand eight hundred  
and ninety-nine.

(Seal) **CONTINENTAL TRUST COMPANY OF THE  
CITY OF NEW YORK, Trustee.**

By Gordon McDonald, V. President.

Sealed and delivered  
in presence of  
Willard V. King, Secretary.

(5 cancelled two cent revenue stamps attached).

1395

### Defendants' Exhibit 632.

Know All Men By These Presents: That the Chicago, Milwaukee & St. Paul Railway Company hereby constitutes and appoints C. A. Goodnow of Chicago, Illinois, its attorney to vote as its proxy, according to the number of votes it is entitled to cast, at the annual meeting of the stockholders of the Des Moines Union Railway Company, to be held in the City of Des Moines, Iowa on Thursday, the fourth day of January, 1900, and at any adjournment or adjournments thereof; and it hereby authorizes and empowers its said attorney to vote for it and in its name, place and stead, for Directors of said Company, and also to vote and act in any other business which may be brought before said annual meeting, or any adjournment or adjournments thereof, hereby ratifying and confirming all that its said attorney and proxy may lawfully do by virtue hereof.

In Witness Whereof, the said Chicago, Milwaukee & St. Paul Railway Company has caused these presents to be signed by its President, and its corporate seal to be hereunto affixed and duly attested, this thirtieth day of December, A. D. 1899.

(Seal) **CHICAGO, MILWAUKEE & ST. PAUL  
RAILWAY COMPANY,**

By A. J. Earling, President.

Attest:  
E. W. Adams, Assistant Secretary.

(One ten cent revenue stamp affixed).

**Defendants' Exhibit 633.****The Wabash Railroad Company.**

Office.

J. Ramsey, Jr., Vice Pres't. &amp; Gen'l. Manager.

St. Louis, Mo. Jan. 2nd, 1900.

Mr. F. M. Huddell,  
President, The Des Moines Union Ry. Co.,  
Des Moines, Iowa.

Dear Sir:—

As requested in yours of Dec. 27th, I hand you herewith proxy of the stock held by the Continental Trust Co. for use at the stockholders' annual meeting to be held on January 4th.

Please acknowledge.

Yours very truly,

J. RAMSEY, Jr.

**Defendants' Exhibit 634.**

Know All Men By These Presents,

That the Continental Trust Company of the City of New York Trustee, do hereby constitute and appoint F. M. Huddell Attorney or Agent for us and in our name to vote as our proxy at the Annual Meeting of the Stockholders of the Des Moines Union Railway Company to be held at Des Moines, Iowa, on Thursday, January 4, 1900.

And we do hereby authorize the persons above named, or either of them, to vote as our proxy at said meeting, or any adjournment thereof, according to the number of votes we should be entitled to vote if then personally present.

In Witness Whereof, we have hereunto set our hands and seal this 30th day of December, one thousand eight hundred and ninety-nine.

(Seal) CONTINENTAL TRUST COMPANY OF THE  
CITY OF NEW YORK, as Trustee.

By Gordon McDonald, V. President.

Sealed and delivered  
in the presence of  
Willard V. King, Secretary.

(Five cancelled two cent revenue stamps affixed.)

1298

**Defendants' Exhibit 635.****Power of Attorney.****Know All Men By These Presents:**

That The Chicago Milwaukee, & St. Paul Railway Company a Stockholder in the Des Moines Union Railway Company and owning 998 Shares of the Capital Stock of said Company, do hereby constitute, and appoint E. W. McKenna, & W. T. Underwood of Chicago my lawful agent, and attorney, for me, and in my name to appear at the meeting of the Stockholders of said Company, to be held at the office of the Company in Des Moines, Iowa, between the hours of 10 o'clock a. m. and 1 o'clock p. m. of the 4th day of January 1906, for the purpose of holding the Annual Meeting and any adjournment thereof and for the transaction of any other business coming before such meeting, or at any adjournment thereof, and then, and there for me, and in my name, to cast the vote to which I am entitled as a Stockholder and which I might cast if present.

Witness my hand this 4th day of January, 1906.

CHICAGO, MILWAUKEE & ST. PAUL RY. CO.  
By E. W. McKenna, Second Vice Pres.

1299

**Defendants' Exhibit 636.**

Know All Men By These Presents, That The New York Trust Company, successor, to the Continental Trust Company of the City of New York, as Trustee under the Wabash Railroad Company, Des Moines Division, First Mortgage, dated January 1st, 1899, does hereby constitute and appoint E. E. Pryor Attorney and Agent for it and in its name, place and stead, to vote as its proxy at the regular annual meeting of the stockholders of the Des Moines Union Railway Company, to be held in Des Moines, Iowa, on January 4th, 1906 or any adjournment thereof, according to the number of votes that it should be entitled to vote if personally present; but this proxy shall not authorize the holder hereof to, and he shall not vote for, any increase of the stock of said Des Moines Union Railway Company, nor for the creation or imposition of any lien, security or charge on the property or franchise of said Des Moines Union Railway Company, except for the acquisition of additional terminals in the City of Des Moines by the Des Moines Union Railway Company.

In Witness Whereof, said the New York Trust Company has caused its seal to be affixed hereto, and this instrument to be signed by its President and Attested by its Sec-

retary this 8th day of Jany. one thousand nine hundred and six.

(Seal)

**NEW YORK TRUST COMPANY,**  
Successor to Continental Trust Com-  
pany of the City of New York, as Trus-  
tee under the Wabash R. R. Company,  
Des Moines Division, First Mortgage,  
dated January 1st, 1899,

By Otto T. Bainard, President.

Attest:

Henry E. Abern,  
Secretary.

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**Defendants' Exhibit 637.**

1400

Des Moines, Ia. August 11th, 1899.

Mr. O. D. Ashley, Secretary,  
195 Broadway, New York.

Dear Sir:

I enclose Stock Certificate No. 9 of the Des Moines Union Railway Company, for 996 shares of stock.

Will you please have the Purchasing Committee assign to me 498 shares of this stock and send the certificate back to me for re-issue? I will issue one half, being 498 shares, to the Purchasing Committee and send it to you together with stock certificate No. 6 for one share issued to James F. How, and certificate No. 7 issued to C. M. Hayes for one share. This will give to the Purchasing Committee 500 shares of stock.

The two shares which are necessary to complete the 500 due me, are certificates No. one to G. M. Dodge for one share; No. two to F. M. Hubbell for one share, both of which were issued to these parties by mistake, and have been assigned to me as a part of the 500 shares which I bought from you.

Hoping this will be satisfactory, I am,

Yours truly,

F. M. HUBBELL.

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**Defendants' Exhibit 638.**

1401

Office of  
The Wabash Railroad Company,  
195 Broadway.

New York, Aug. 15, 1899.

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir:

I have yours of Aug. 11th, enclosing certificate for 996 shares of the Capital Stock of the Des Moines Union Ry Co., of

which stock you asked to assign 498 shares to you. This is all right if in the sale of the \$135,000 of bonds which were divided into two lots of 67 and 68, the obligations for  $\frac{1}{8}$  of the stock to each were made to you. The transfer, which you now request, covers the two lots, and my impression is that one of the lots was to go to Gen'l Dodge. I have no doubt this is all right, but, of course, I shall want the two obligations for  $\frac{1}{8}$  each of the stock to be returned to me, understanding that I am now to make the transfer which fulfills those obligations. If this is all right, please let me know, and I will return the certificate properly assigned. I suppose my signature as Secretary will be all you want. If not, it will take some time to get the individual signatures of the Committee.

I note that the authorized Capital Stock is \$2,000,000. Am I to understand that \$200,000 is the whole amount of stock issued?

Yours respectfully,

O. D. ASHLEY,  
President.

1402

### **Defendants' Exhibit 639.**

Des Moines, August 19, 1890.

O. D. Ashley, Prest.

195 Broadway, New York.

Dear Sir:

I have yours of August 15th, and in reply have to say that the one quarter interest in the stock of the Des Moines Union, which was sold by the Purchasing Committee to F. M. Hubbell together with the 135,000 of terminal bonds, was settled and disposed of some time ago. That you may understand this matter fully I will give you a list of the stock which has been issued and to whom.

The authorized capital is \$2,000,000 but the amount issued is \$400,000 and a one eighth interest represents 500 shares.

Originally your Committee was entitled to one half of the stock, and when it came to be issued, the one quarter which was first sold to me was issued in two certificates; and deducted from your half of the stock, namely,

No. 12 to F. M. Hubbell, .....	500 shares
No. 14 to G. M. Dodge, .....	500 shares

The 400,000 of stock was issued on the 8th day of April 1890, as follows:

No. 1 to Dodge, .....	1 share
No. 2 to Hubbell, .....	1 share
No. 6 to James F. How, .....	1 share
No. 7 to C. M. Hayes, .....	1 share
No. 9 to Purchasing Committee, ...	996 shares

Total, .....1000 shares.

This being one fourth of the entire stock and belongs to the Purchasing Committee, Certificates No. 1 and 2 have been issued erroneously, No. 1 having been assigned in blank by Dodge, No. 2 is assigned in blank by me.

No. 3 to F. C. Hubbell for .....	1 share
No. 4 to H. D. Thompson for ....	1 share
No. 11 to D. M. & N. Railway Co., ...	998 shares

Total, .....1000 shares.

which is the one fourth interest belonging to the D. M. & N. W. Ry. Co.

No. 5 to L. M. Martin, .....	1 share
No. 8 to A. B. Cummins, .....	1 share
No. 10 to D. M. & Northern Ry. Co., ...	998 shares

Total, .....1000 shares.

being the one fourth which is owned by the Des Moines & Northern Railway.

No. 12 to F. M. Hubbell, .....	500 shares
No. 14 to G. M. Dodge, .....	500 shares

1000 Shares,

This is the 1000 shares of stock sold by your Committee to F. M. Hubbell, with the 135000 of bonds.

Certificate No. 13 has never been issued, and is cancelled in the stock book, for the reason that a mistake was made in it and it was thought better to cancel it than to change the face of the Certificate. This makes 4,000 shares which is all of the capital stock of the company.

I prefer to have all the members of the Purchasing Committee affix their signatures to the assignment of the 498 shares to me, being a part of Certificate No. 9.

Please let me hear from you now whether this is perfectly plain and satisfactory.

Yours truly,

F. M. HUBBELL.

**Defendants' Exhibit 640.**

Office of  
The Wabash Railroad Company,  
195 Broadway.

New York August 22, 1890.  
" 25, "

F. M. Hubbell, Esq.,  
Des Moines, Iowa.

Dear Sir,

Your letter of the 19th received, and explanation is satisfactory,—I will forward the certificate to Mr. Joy for his signature, and request him to send it to you, and then the transfer will be complete. You will then as I understand it forward to me a certificate, in the name of the Purchasing Committee, for 498 shares, which, with the two shares issued to Messrs. How and Hays, will make up the 500 shares belonging to that committee.

What becomes of the obligations I gave to you for this stock? If they have been surrendered to the Depot Co., I wish you would send me a receipt for the certificates to show that the obligations have been fulfilled.

General Hubbard is absent in Europe and will not return before October, but he left a power of attorney with me and I have, accordingly, signed for him.

Yours truly,

O. D. ASHLEY,  
President.

**Defendants' Exhibit 641.**

Des Moines, August 28, 1890.

O. D. Ashley, Esq.,  
195 Broadway, New York.

Dear Sir:

I now enclose Des Moines Union Railway Company Stock Certificate No. 15 for 498 shares issued to James F. Joy, T. H. Hubbard, Edgar T. Welles and O. D. Ashley, Purchasing Committee Trustees, being amount reserved by the Purchasing Committee out of Certificate No. 9 for 996 shares.

I will bring the contracts when I come to New York within 10 days.

Yours truly,  
F. M. HUBBELL.

1406

**Defendants' Exhibit 642.**

Office of  
The Wabash Railroad Company,  
195 Broadway.

New York, Sept. 2, 1890.

F. M. Hubbell, Esq., Pres't.  
Des Moines & Western,  
Des Moines, Iowa.

Dear Sir:—

Yours enclosing certificate for 498 shares of Des Moines Union R'y. Co. Stock in the name of the Purchasing Committee duly received.

Yours truly,

O. D. ASHLEY, President.

1407

**Defendants' Exhibit 643.**

May 17, 1895.

Mr. A. D. Ashley,  
195 Broadway, New York City.

Dear Sir:—

I have your dispatch of to-day and have answered it as follows, which I now confirm.

"We have only thirty-four terminal bonds. We will join you in selling these at ninety and accrued interest. I will send you printed copy of the lease, or terminal contract, and a map as soon as I can have it prepared. Have written."

We have made disposition of all of our bonds except 34, and would be glad to put these in with yours to make a large block, and have them sold at 90% and accrued interest.

I do not know how many bonds Genl. Dodge has, or at what price he would be willing to sell them. As he is in New York can't you see him in regard to his bonds.

The lease, or terminal contract, as we call it, was entered into originally between the Des Moines Union R'y. Company, party of the first part, and the Des Moines & St. Louis Railroad Company, the Des Moines & Northwestern Railway Company, and the St. Louis, Des Moines & Northern Railway Company, parties of the second part. The St. Louis, Des Moines & N. R'y. was foreclosed and the Des Moines Northern R'y. Co. succeeded it in ownership. Then the Des Moines & Northern and the Des Moines & Northwestern Railways were con-

solidated in 1892, under the name of the Des Moines, Northern & Western R'y. Co. This latter Company was foreclosed and re-organized in 1895, under the name of the Des Moines Northern & Western Railroad Company. From this you will see that the present Company is not a party to the terminal contract only as it is entitled to all the benefits of the lessee, as successor of the other Companies.

If desirable, I have no doubt that a new terminal contract could be made so that the Des Moines Union Company would have the benefit of the written obligation of the Des Moines, Northern & Western Railroad Company.

There is an agreement between the Des Moines Union R'y. Company and the Chicago, St. Paul & Kansas City R'y. Co., dated January 1st, 1890 and afterward assumed by the Chicago Great Western R'y. Co. This contract terminated June 1st 1894 and was renewed by both parties, for 30 days and until canceled by notice from either party, so that the obligation of the Chicago Great Western R'y. Co. is liable to be canceled at its own option, at any time after thirty days' notice. Such a lease as that will be of no assistance in selling bonds so I do not think you need a copy of the C. G. W. R'y. contract with the Des Moines Union R'y.

Yours truly,

F. M. HUBBELL.

1409

#### **Defendants' Exhibit 644.**

Endorsements on the back of stock certificate number 9, issued by the Des Moines Union Railway Company.

For value received, we hereby sell, transfer and assign to F. M. Hubbell 498 shares and to James F. Joy, T. H. Hubbard, Edgar T. Welles and O. D. Ashley, Purchasing Committee, 498 shares of the stock within mentioned and authorize..... to secure the necessary transfer on the books of the company.

Witness our hands and seal this 22 day of August, 1890.

Witness,

J. C. Otteson,

Henry B. Joy.

O. D. ASHLEY,

THOMAS H. HUBBARD,

By O. D. Ashley, Attorney.

EDGAR T. WELLES,

JAMES F. JOY,

Purchasing Committee of the  
Wabash, St. Louis & Pacific  
R. Company.

1410

**Defendants' Exhibit 645.**

Endorsements appearing on the back of stock certificate number 15, issued by the Des Moines Union Railway Company.

For value received . . . . . hereby sell transfer and assign to the Continental Trust Company of the City of New York, as trustee, the shares of stock within mentioned and authorize . . . . . to secure the necessary transfer on the books of the company.

Witness our hands and seals this 21 day of March, 1899.

Witness,

J. C. Otteson.

THOMAS H. HUBBARD,

O. D. ASHLEY,

EDGAR T. WELLES,

Surviving members of Purchasing Committee, Trustee.

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